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TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

Subchapter C—Interstate Transportation of Animals and Poultry

[B. A. I. Order 383, Rev., Amdt. 79]

PART 76—HOG CHOLERA, SWINE PLAGUE, AND OTHER COMMUNICABLE SWINE DISEASES

SUBPART B—VESICULAR EXANTHEMA

CHANGES IN AREAS QUARANTINED

Pursuant to the provisions of sections 1 and 3 of the act of March 3, 1905, as amended (21 U. S. C. 123, 125), sections 1 and 2 of the act of February 2, 1903, as amended (21 U. S. C. 111–113, 120), and section 7 of the act of May 29, 1884, as amended (21 U. S. C. 117), § 76.27, as amended, Subpart B, Part 76, Title 9, Code of Federal Regulations (21 F. R. 3, 417, 786, 1165, 1461, 1743, 2230, 2611, 3005), which contains a notice with respect to the States in which swine are affected with vesicular exanthema, a contagious, infectious, and communicable disease, and which quarantines certain areas in such States because of said disease, is hereby further amended in the following respects:

1. A new subdivision (viii) is added to subparagraph (1) of paragraph (d), relating to Atlantic County in New Jersey, to read:

(viii) Lots 1 through 20, Plot 463, in Buena Vista Township, owned and operated by Russell B. Cunningham, Jr.

2. A new subdivision (xv) is added to subparagraph (2) of paragraph (d), relating to Burlington County in New Jersey, to read:

(xv) Lots 15 and 15A, Block 11, Plot 2, in Evesham Township, owned and operated by Soboleski Brothers.

3. New subdivisions (xi) and (xii) are added to subparagraph (6) of paragraph (d), relating to Hudson County in New Jersey, to read:

(xi) Lot 5, Block 9, in Secaucus Township, owned by Edward Walka and operated by John Rozansky; and

(xii) Lot 4, Block 41, in Secaucus Township, owned by Joseph Supel & Sons and operated under the name of Supel's Stock Farm.

4. New subdivisions (x) and (xi) are added to subparagraph (8) of paragraph (d), relating to Middlesex County in New Jersey, to read:

(x) That part of Monroe Township bounded on the north by Hoffman Station Road, on the west by Gravel Hill Road, and on the east by Gravel Hill-Hoffman Station Road; and

(xi) Lot 48A, Block 95, in South Brunswick Township, owned and operated by S. J. Kapolski.

5. A new subdivision (xxii) is added to subparagraph (9) of paragraph (d), relating to Monmouth County in New Jersey, to read:

(xxii) That part of Manalapan Township bounded on the northeast by the Englishtown-Millhurst Road, on the northwest by the Manalapan-Englishtown Road, on the southwest by the McCaffery Road, and on the southeast by the Gordens Corner-Tennent Road.

6. Subparagraph (10) of paragraph (d), is amended to read:

(10) All of Morris County except the following:

(i) That part of Parsippany-Troy Hills Township lying north of U. S. Route No. 46, east of Baldwin Road, south of Vail Road, and west of North Beverwyck Road;

(ii) That part of Jefferson Township lying west of New Russia-Stockholm Road, north of New Russia-Sparta Road, and southeast of the Morris County line; and

(iii) That part of Rockaway Township lying east of Green Pond Road, south and west of Upper Hibernia Road, and north and east of Meridon Road.

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes certain areas in New Jersey from the areas heretofore quarantined because of vesicular exanthema. Hereafter, the restrictions pertaining to the interstate movement of swine, and carcasses, parts and offal of swine, from or through quarantined areas, contained in 9 CFR, 1955 Supp., Part 76, Subpart B, as amended, will not apply to such areas. However, the restrictions pertaining to such movement from non-quarantined areas, contained in said Subpart B, as amended, will apply thereto.

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FEDERAL REGISTER

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The amendment relieves certain restrictions presently imposed, and must be made effective immediately to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and the amendment may be made effective less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1, 3, 33 Stat. 1264, as amended, 1265, as amended; 21 U. S. C. 111–113, 117, 120, 123, 125)

Done at Washington, D. C., this 1st day of June 1956.

[SEAL] B. T. SHAW,
Administrator,
Agricultural Research Service.

[F. R. Doc. 56-4502; Filed, June 7, 1956; 8:49 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6311]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

NATIONAL CASUALTY CO.

Subpart—*Advertising falsely or misleadingly:* § 13.260 *Terms and conditions:*

Insurance coverage. Subpart—*Offering unfair, improper and deceptive inducements to purchase or deal:* § 13.2080 *Terms and conditions:* Insurance coverage.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, National Casualty Company, Detroit, Mich., Docket 6311, May 21, 1956]

This proceeding was heard by a hearing examiner on the complaint of the Commission, charging a Detroit insurance company, engaged in selling accident and health insurance policies through some 350 to 400 independent insurance agencies throughout the nation, with misrepresenting the duration, extent of coverage and benefits of its policies, and the physical requirements for policyholders, in printed brochures and advertising matter sent to such agents for use in their solicitation of prospects.

Following hearings in due course, during which a number of motions to dismiss were denied, the hearing examiner made his initial decision, including findings, conclusions, and order to cease and desist. From this, both counsel appealed. Having heard the matter on briefs and oral argument, the Commission rendered its decision granting the appeal of counsel in support of the complaint and denying that of respondent.

The Commission directed modification of the initial decision in conformity with an opinion rendered by Commissioner Secrest, and on May 21, 1956, adopted the initial decision as so modified as the decision of the Commission, Commissioners Gwynne and Mason dissenting.

The order to cease and desist, including order requiring report of compliance therewith, is as follows:

It is ordered, That respondent, National Casualty Company, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any accident, health, hospital or surgical insurance policy, do forthwith cease and desist from representing, directly or by implication:

1. That any such policy may be continued in effect by the insured upon payment of stipulated premiums, indefinitely or for any stated time, unless full disclosure of any other provision or condition of termination contained in the policy is made conspicuously, prominently, and in sufficiently close conjunction with the representation as will fully relieve it of all capacity to deceive.

2. That no medical examination is required, unless the respondent actually insures the policyholder without regard to his physical condition before or after issuance of the policy; or otherwise representing that the condition of the insured's health at the time of issuance of the policy will not be considered by the respondent in determining its liability thereunder, or that the respondent will not, as a claims practice, require proof of good health of the insured at the time of issuance of the policy.

3. That any policy provides for payment in full or in any specified amount or for payment up to any specified amount for any medical, surgical or hospital service, unless the policy provides that the actual cost to the insured for that service will be paid in all cases up to the amount represented, or unless full disclosure of the schedule of payments for which the policy provides is made conspicuously, prominently, and in sufficiently close conjunction with said representation as will fully relieve it of all capacity to deceive.

4. The extent or duration of either coverage or benefits payable under the terms of any policy, unless a statement of all the conditions, exceptions, restrictions and limitations affecting the indemnification actually provided is set forth conspicuously, prominently, and in sufficiently close conjunction with the representation as will fully relieve it of all capacity to deceive.

It is further ordered, That respondent, National Casualty Company, shall, within sixty (60) days after service upon it of this order file with the Commission a report in writing setting forth in detail the manner and form in which it has complied therewith.

It is further ordered, That the initial decision of the hearing examiner, as modified herein, is hereby adopted as the decision of the Commission.

By the Commission.[1]

Issued: May 21, 1956.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 56-4491; Filed, June 7, 1956; 8:46 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 54101]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

PART 21—CARTAGE AND LIGHTERAGE

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

MISCELLANEOUS AMENDMENTS

To provide for the acceptance of a declaration of intended business or trade in lieu of the execution of the prescribed form after use for all articles withdrawn for use as vessel's supplies on the same basis and to correct an error in a cross reference in § 10.60 (g), the Customs regulations are amended as follows:

1. Section 10.60 (g) is amended by substituting "§ 10.59 (e)" for "§ 10.59 (d)".

2. Section 10.64 (b) is amended by substituting "$100" for "$50, or $100 in the case of fuel oil or lubricating oil".

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

As the result of an employee's suggestion, the Bureau has given further consideration to a proposal that licenses be issued to cartmen or lightermen for indefinite periods and remain effective until terminated. Under this plan, the collector would periodically be required to ascertain the sufficiency of the supporting bonds. The Bureau is of the opinion that the adoption of the plan would serve a good purpose.

The Bureau is also of the opinion that a determination may be made locally as to the frequency and times that a current list showing the names and addresses of the managing officers and members of the cartage organization and of the employees thereof who will receive or transport imported merchandise which has not been released from customs shall be required to be furnished.

The Bureau is of the further opinion that the Customs regulations should include a provision authorizing collectors, in their discretion, to require customs licensed cartmen and lightermen to make and keep such written records relating to cartage or lighterage of imported merchandise which has not been released from customs as may be needed for purposes of local customs administration.

Accordingly, the Customs regulations are hereby amended as follows:

1. Section 21.1 (a) is amended by deleting "for a term of 1 year" at the end of the second sentence; by amending the fifth sentence to read: "The license shall remain in force and effect as long as the required bond is considered sufficient or until the license is suspended or terminated."

and by deleting the last sentence and substituting the following matter therefor: "The collector may require the applicant for a license to furnish a list showing the names and addresses of the managing officers and members of the organization or of the persons who will receive or transport imported merchandise which has not been released from customs, or a list of all such persons and their addresses. An applicant shall be required in each case to undertake to surrender promptly to the collector the identification cards of persons no longer employed by the applicant or give reasons satisfactory to the collector why such cards cannot be surrendered. The collector may also require an applicant to undertake to furnish, at such times and intervals as the collector deems necessary, a current list showing the names and addresses of the managing officers and members of the organization or of the persons who will receive or transport imported merchandise which has not been released from customs, or a list of all such persons and their addresses. A license shall be subject to suspension for failure to comply with the requirements of the two preceding sentences, or it may be revoked for sufficiently good cause."

2. Section 21.2 is amended by deleting ", revocation or lapse" in the next to the last sentence and substituting therefor "or termination".

3. Section 21.6 is amended by adding the following sentence: "Such customs order or rule may include a requirement by the collector that customs licensed cartmen and lightermen shall make,

[1] Commissioners Gwynne and Mason dissenting.

keep, and promptly submit for customs inspection and examination upon request therefor such current written records relating to cartage and lighterage as may be needed for purposes of local customs administration."

(Secs. 565, 624, 46 Stat. 747, 759; 19 U. S. C. 1565, 1624)

To delete a provision which will be inapplicable when cartage and lighterage licenses are issued for an indefinite period, § 24.12 (a) (1) of the Customs regulations is amended by deleting the last sentence.

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

The above amendments to §§ 21.1 (a), 21.2, and 24.12 (a) (1) of the Customs regulations shall be effective as soon as customs Form 3857 "License for Cartmen and/or Lightermen" has been revised and is available for use. Thereafter, as applications are made for new licenses or for extensions of licenses to cart or lighter, licenses shall be granted for indefinite periods in accordance with the regulations as hereby amended. The other amendments above shall be effective on the date of publication in the FEDERAL REGISTER.

When customs Form 3855, Bond of Customs Cartman or Lighterman, is reprinted the word "termination" will be substituted for "expiration or revocation" in the first line of condition (4).

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: June 4, 1956.

DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F R. Doc. 56-4508; Filed, June 7, 1956; 8:50 a. m.]

[T. D. 54102]

PART 22—DRAWBACK

APPLICATIONS FOR ISSUANCE OF CERTIFICATES OF IMPORTATION

Applications to collectors of customs for the issuance of certificates of importation for drawback purposes under § 22.14 (a) of the Customs regulations are now required to be made in writing but no particular form has been provided for use in making such applications. Frequently such applications do not contain sufficient information to enable the collector to issue the certificate, and this fact usually requires correspondence with the applicant to obtain the additional information necessary to issue the certificate. In order to eliminate the necessity for such correspondence, a new form, designated as customs Form No. 5263, entitled "Application for Issuance of Certificate(s) of Importation for Drawback Purposes," has been devised for use in making such applications.

To provide for the use of this new form, § 22.14 (a) of the Customs regulations is hereby amended to read as follows:

(a) If the merchandise identified in the drawback entry or certificate of manufacture was not imported at a port within the customs collection district where the entry or certificate of manufacture is filed, the collector of customs of the district where the merchandise was imported shall, upon application by the importer or the party to whom the delivery of such merchandise has been certified, issue to the collector at the port named a certificate of importation on customs Form 5265 bearing a notation showing the date on which the application for the issuance of the certificate was filed. Such application shall be made on customs Form 5263 or in a substantially similar form.

(Secs. 313, 624, 46 Stat. 693, as amended, 759; 19 U. S. C. 1313, 1624)

New customs Form 5263 "Application for Issuance of Certificate(s) of Importation for Drawback Purposes," will not be salable. It is anticipated that this form will be printed and available for distribution and use within 90 days. Supplies may be obtained by submitting requisitions therefor on customs Form 3039 to the Section of Forms, Customs Information Exchange, 201 Varick Street, New York 14, New York.

This amendment shall become effective as to applications filed on and after October 1, 1956.

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: June 4, 1956.

DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 56-4509; Filed, June 7, 1956; 8:50 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

Subchapter B—Food and Food Products

PART 19—CHEESES; PROCESSED CHEESES; CHEESE FOODS; CHEESE SPREADS; AND RELATED FOODS; DEFINITIONS AND STANDARDS OF IDENTITY

EFFECTIVE DATE OF ORDER AMENDING DEFINITIONS AND STANDARDS OF IDENTITY FOR CERTAIN CHEESES AND CHEESE FOODS

In the matter of amending the definition and standard of identity for cheddar cheese, cheese; cheddar cheese for manufacturing; washed curd cheese; soaked curd cheese; washed curd cheese for manufacturing; colby cheese; colby cheese for manufacturing; granular cheese, stirred curd cheese; granular cheese for manufacturing; swiss cheese, emmentaler cheese; swiss cheese for manufacturing; gruyere cheese; brick cheese; brick cheese for manufacturing; muenster cheese, munster cheese; monterey cheese, monterey jack cheese; high-moisture jack cheese; provolone cheese, pasta filata cheese; caciocavallo siciliano cheese; asiago fresh cheese, asiago soft cheese; asiago medium cheese; asiago old cheese; semisoft cheeses; semisoft part-skin cheeses; pasteurized process cheese; pasteurized blended cheese; pasteurized process cheese with fruits, vegetables, or meats; pasteurized process pimento cheese; pasteurized blended cheese with fruits, vegetables, or meats; pasteurized process cheese food; pasteurized process cheese food with fruits, vegetables, or meats; pasteurized process cheese spread; cold-pack cheese, club cheese, comminuted cheese; cold-pack cheese food; cold-pack cheese food with fruits, vegetables, or meats, to provide for the inclusion of sorbic acid and sodium and calcium propionate as optional ingredients in the foods named:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 401, 52 Stat. 1046, 68 Stat. 54; 21 U. S. C. 341) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (20 F. R. 1996), notice is hereby given that the objections filed to the order of the Commissioner published in the FEDERAL REGISTER of January 24, 1956 (21 F. R. 541) have been withdrawn or not allowed, and the amendments promulgated by that order will become effective on July 24, 1956, as originally ordered.

(Sec. 401, 52 Stat. 1046, as amended; 21 U. S. C. 341)

Dated: June 4, 1956.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 56-4503; Filed, June 7, 1956; 8:49 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter E—Alcohol, Tobacco, and Other Excise Taxes

[T. D. 6180]

PART 182—INDUSTRIAL ALCOHOL

PART 225—WAREHOUSING OF DISTILLED SPIRITS

PART 240—WINE

PART 245—BEER

SUPPLIES ON VESSELS EMPLOYED IN THE FISHERIES, TO CONFORM WITH CUSTOMS REGULATIONS

MISCELLANEOUS AMENDMENTS

On July 28, 1955, a notice of proposed rulemaking with respect to amendments of regulations in 26 CFR (1954) Parts 182, 225, 240, and 245 was published in the FEDERAL REGISTER (20 F. R. 5398).

The purpose of the amendments is to conform 26 CFR (1954) Parts 182, 225, 240, and 245 with the Bureau of Customs regulations, which have been amended by Treasury Decision 53935 (20 F. R. 8329), to clearly define the type of vessels employed in the fisheries which are entitled to withdraw distilled spirits, wines, or beer for use as supplies on such vessels. No data, views, or arguments pertaining to these amendments having been received within the period of 30 days from the date of publication, 26 CFR (1954) Parts 182, 225, 240, and 245 are amended, as follows:

PARAGRAPH 1. 26 CFR (1954) Part 182, is amended as follows:

(A) Section 182.630a is amended as follows:

(1) By striking the word "Alcohol" from the first sentence and inserting in lieu thereof the words: "Subject to the applicable provisions of this part, alcohol".

(2) By striking from the statutory citations at the end of the section, references to "53 Stat. 360", and "3114", and inserting in lieu thereof "68A Stat. 655" and "5304", respectively.

(B) By inserting, immediately following § 182.630a, the following new section:

§ 182.630a–1 *Vessels employed in the fisheries.* Alcohol may be withdrawn free of tax under the provisions of paragraphs (b) and (e) of § 182.630a relating to vessels employed in the fisheries, only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the collector of customs is satisfied by reason of the quantity requested in the light of (a) whether the vessel is employed in substantially continuous fishing activities, and (b) the vessel's complement, that none of of the withdrawn alcohol is intended to be removed from the vessel in, or otherwise returned to, the United States. Such shipment and lading shall be conditioned upon compliance with the applicable provisions of this part. Lading of such alcohol for use on such vessels shall be subject to approval by the collector of cutoms of a special written application, in duplicate, on customs Form 5125, of the exporter and designation by the applicant, in part 1 of the Form 1659 submitted to the assistant regional commissioner for execution of the permit for removal and transportation of the alcohol, that the alcohol is to be laden for use as supplies on a vessel employed in the fisheries. The original application on customs Form 5125, after approval, shall be stamped with the withdrawal number (permit number on Form 1659) and date thereof and shall be returned by the collector of customs to the exporter for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented thereafter by the exporter or the vessel's master to the collector of customs within 24 hours (excluding any period during which the customhouse is not open for general customs business) after each subsequent arrival of the vessel at a customs port or station and that an accounting shall be made at the time of such presentation of the disposition of the alcohol until the collector of customs is satisfied that it has been consumed on board, or landed under customs supervision, and takes up the authorization. The approval of customs Form 5125 shall be subject to the further condition that any such withdrawn alcohol remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the collector for the port or place of arrival shall deem necessary. When such alcohol has been accounted for to the satisfaction of the collector of customs, he shall so certify on the completed customs Form 5125 taken up from the exporter or the vessel's master and forward the form to the assistant regional commissioner for the region in which the premises from which the alcohol was withdrawn is located. In the event of a failure on the part of the exporter or the master of the vessel to comply with the conditions of the withdrawal or upon receipt of evidence that the alcohol was not lawfully used as supplies on the vessel, the collector of customs will advise the assistant regional commissioner for the region in which the premises from which the alcohol was withdrawn is located of all the facts in the case for determination of any liability incurred. Assessment of tax liability found to have been incurred will be made against the principal on the bond.

(46 Stat. 690, as amended; 19 U. S. C. 1309)

(C) Section 182.630d is amended by inserting in the third sentence of paragraph (a), which begins "Alcohol withdrawn for", immediately following the words "as required by", the following: "the applicable provisions of § 182.630a–1,".

(D) Section 182.630j is amended as follows:

(1) By inserting, immediately following the first sentence, the following new sentence: "In the case of supplies on vessels employed in the fisheries, compliance with the provisions of § 182.630a–1 is required."

(2) By striking "§ 182.603" from the last sentence and inserting in lieu thereof the following: "§§ 182.603 and 182.630a–1".

(E) Section 182.630l is amended to read as follows:

§ 182.630l *Evidence of use on vessels and aircraft.* The principal on the bond shall also submit to the assistant regional commissioner, within six months (or such additional time as may be granted by the assistant regional commissioner) a statement of the master or other officer of the vessel or aircraft on which the alcohol was laden, having knowledge of the facts, showing that the alcohol has been used on board the vessel or aircraft, and that no portion thereof has been unladen in the United States or any of its territories or possessions: *Provided,* That such statement will not be required, in case of any shipment, when the alcohol is laden on vessels of war, or, in cases other than supplies on vessels employed in the fisheries, where the amount of tax on the alcohol does not exceed $100. Such statement shall be signed by the master or other officer having knowledge of the facts and immediately above the signature there will appear the following statement: "I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct:" *And provided further,* That, in the case of vessels employed in the fisheries, in lieu of such statement, compliance with the provisions of § 182.630a–1 is required.

(46 Stat. 690, as amended; 19 U. S. C. 1309)

(F) Section 182.630m is amended by striking out the final period of the section and adding: ", except that, in the case of withdrawals for supplies on vessels employed in the fisheries, crediting of the bond will be subject to compliance with the provisions of § 182.630a–1."

PAR. 2. 26 CFR (1954) Part 225 is amended as follows:

(A) Section 225.860 is amended by striking the word "Distilled" from the first sentence and inserting in lieu thereof the words: "Subject to the applicable provisions of this part, distilled".

(B) By inserting, immediately following § 225.860, the following new section:

§ 225.860a *Vessels employed in the fisheries.* Distilled spirits may be withdrawn free of tax under the provisions of paragraphs (b) and (e) of § 225.860, relating to vessels employed in the fisheries, only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the collector of customs is satisfied by reason of the quantity requested in the light of (a) whether the vessel is employed in substantially continous fishing activities, and (b) the vessel's complement, that none of the withdrawn distilled spirits is intended to be removed from the vessel in, or otherwise returned, to the United States. Such shipment and lading shall be conditioned upon compliance with the applicable provisions of this part. Lading of such distilled spirits for use on such vessels shall be subject to approval by the collector of customs of a special written application, in duplicate, on customs Form 5125, of the exporter and designation by the applicant, in part 1 of the Form 206 submitted to the assistant regional commissioner for execution of the permit for removal and transportation of the spirits, that the spirits are to be laden as supplies on a vessel employed in the fisheries. The original application on customs Form 5125, after approval, shall be stamped with the withdrawal number (serial number of Form 206) and date thereof and shall be returned by the collector of customs to the exporter for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented thereafter by the exporter or the vessel's master to the collector of customs within 24 hours (excluding any period during which the customhouse is not open for general customs business) after each subsequent arrival of the vessel at a customs port or station and that an accounting shall be made at the time of such presentation of the disposition of the spirits until the collector of customs is satisfied that all of them have been consumed on board, or landed under customs supervision, and takes up the authorization. The approval of customs Form 5125 shall be subject to the further condition that any such withdrawn spirits remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the collector for the port or place of arrival shall deem necessary. When such spirits have been accounted for to the satisfaction of the collector of customs, he shall so certify on the completed customs Form 5125 taken up from the exporter or the vessel's master and forward the form to the assistant regional commissioner for the region in which the warehouse from

which the spirits were withdrawn is located. In the event of a failure on the part of the exporter or the master of the vessel to comply with the conditions of the withdrawal or upon receipt of evidence that the spirits were not lawfully used as supplies on the vessel, the collector of customs will advise the assistant regional commissioner for the region in which the warehouse from which the spirits were withdrawn is located of all the facts in the case for determination of any liability incurred. Assessment of tax liability found to have been incurred will be made against the principal of the bond.

(46 Stat. 690, as amended; 19 U. S. C. 1309)

(C) Section 225.864 is amended by inserting in the list of sectional references in the second sentence, in its proper numerical sequence, a reference to section "225.860a".

(D) Section 225.865 is amended as follows:

(1) By inserting, in the proviso of the first sentence, immediately following the words "vessels of war, or", the following: ", in cases other than supplies for vessels employed in the fisheries,".

(2) By inserting at the end of the section the following new sentence: "In the case of supplies for vessels employed in the fisheries compliance with the provisions of § 225.860a is required."

(E) Section 225.866 is amended by striking the period at the end of the fourth sentence, which begins "In the case of", and adding: ", except that credit will not be given in the case of withdrawals for supplies on vessels employed in the fisheries until the spirits are accounted for in conformity with the requirements of § 225.860a."

PAR. 3. 26 CFR (1954) Part 240 is amended as follows:

(A) Section 240.690 is amended by striking "§ 240.691" from the first sentence, and inserting in lieu thereof: "§§ 240.690a and 240.691".

(B) By inserting, immediately following § 240.690, the following new section:

§ 240.690a *Vessels employed in the fisheries.* Wine may be withdrawn free of tax under the provisions of paragraphs (b) and (e) of § 240.690 relating to vessels employed in the fisheries, only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the collector of customs is satisfied by reason of the quantity requested in the light of (a) whether the vessel is employed in substantially continuous fishing activities, and (b) the vessel's complement, that none of the withdrawn wine is intended to be removed from the vessel in, or otherwise returned to, the United States. Such shipment and lading shall be conditioned upon compliance with the applicable provisions of this part. Lading of such wine for use on such vessels shall be subject to approval by the collector of customs of a special written application, in duplicate, on customs Form 5125, of the exporter and designation by the applicant in part 1 of the Form 711–B submitted to the assistant regional commissioner for approval of the removal of the wine, that the wine is to be laden for use as supplies on a vessel employed in the fisheries. The original application on customs Form 5125, after approval, shall be stamped with the withdrawal number (exporter's serial number on Form 711–B) and date thereof and shall be returned by the collector of customs to the exporter for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented thereafter by the exporter or the vessel's master to the collector of customs within 24 hours (excluding any period during which the customhouse is not open for general customs business) after each subsequent arrival of the vessel at a customs port or station and that an accounting shall be made at the time of such presentation of the disposition of the wine until the collector of customs is satisfied that it has been consumed on board, or landed under customs supervision, and takes up the authorization. The approval of customs Form 5125 shall be subject to the further condition that any such withdrawn wine remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the collector for the port or place of arrival shall deem necessary. When such wine has been accounted for to the satisfaction of the collector of customs, he shall so certify on the completed customs Form 5125 taken up from the exporter or the vessel's master and forward the form to the assistant regional commissioner for the region in which the bonded wine cellar from which the wine was withdrawn is located. In the event of a failure on the part of the exporter or the master of the vessel to comply with the conditions of the withdrawal or upon receipt of evidence that the wine was not lawfully used as supplies on the vessel, the collector of customs will advise the assistant regional commissioner for the region in which the bonded wine cellar from which the wine was withdrawn is located of all the facts in the case for determination of any liability incurred. Assessment of tax liability found to have been incurred will be made against the principal on the bond.

(68A Stat. 665; 26 U. S. C. 5362)

(C) By inserting, immediately following § 240.701, the following new section:

§ 240.702 *Evidence of use on vessels employed in the fisheries.* In the case of wine laden for use on vessels employed in the fisheries, compliance with the provisions of § 240.690a is required.

(68A Stat. 665; 26 U. S. C. 5362)

PAR. 4. 26 CFR (1954) Part 245 is amended as follows:

(A) Section 245.290 is amended by striking the word "Beer" from the first sentence, and inserting in lieu thereof the words: "Subject to the applicable provisions of this subpart, beer".

(B) By inserting, immediately following § 245.290, the following new section:

§ 245.290a *Vessels employed in the fisheries.* Beer may be withdrawn free of tax under the provision of paragraphs (b) and (e) of § 245.290 relating to vessels employed in the fisheries, only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the collector of customs is satisfied by reason of the quantity requested in the light of (a) whether the vessel is employed in substantially continuous fishing activities, and (b) the vessel's complement, that none of the withdrawn beer is intended to be removed from the vessel in, or otherwise returned to, the United States. Such shipment and lading shall be conditioned upon compliance with the applicable provisions of this subpart. Lading of such beer for use on such vessels shall be subject to approval by the collector of customs of a special written application, in duplicate, on customs Form 5125, of the exporter and designation by the applicant in part 1 of the notice, Form 1689, that the beer is to be laden for use as supplies on a vessel employed in the fisheries. The original application on customs Form 5125, after approval, shall be stamped with the withdrawal number (brewer's serial number on Form 1689) and date thereof and shall be returned by the collector of customs to the exporter for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented thereafter by the exporter or the vessel's master to the collector of customs within 24 hours (excluding any period during which the customhouse is not open for general customs business) after each subsequent arrival of the vessel at a customs port or station and that an accounting shall be made at the time of such presentation of the disposition of the beer until the collector of customs is satisfied that it has been consumed on board, or landed under customs supervision, and takes up the authorization. The approval of customs Form 5125 shall be subject to the further condition that any such withdrawn beer remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the collector for the port or place of arrival shall deem necessary. When such beer has been accounted for to the satisfaction of the collector of customs, he shall so certify on the completed customs Form 5125 taken up from the exporter or the vessel's master and forward the form to the assistant regional commissioner for the region in which the brewery from which the beer was withdrawn is located. In the event of a failure on the part of the exporter or the master of the vessel to comply with the conditions of the withdrawal, or on receipt of evidence that the beer was not lawfully used as supplies on the vessel, the collector of customs will advise the assistant regional commissioner for the region in which the brewery from which the beer was withdrawn is located of all the facts in the case for determination of any liability incurred. Assessment of tax liability found to have been incurred will be made against the brewer.

(68A Stat. 612; 26 U. S. C. 5053)

(C) Section 245.294 is amended to read as follows:

§ 245.294 *Evidence of lading for use.* When beer has been laden on board a vessel or aircraft for use as ship's supplies or supplies for aircraft, there must be submitted promptly to the assistant

regional commissioner a statement of the master or other officer of the vessel or aircraft on which the beer was laden, having knowledge of the facts, showing that the beer has been laden and will be used on board the vessel or aircraft, and that no portion thereof has been or will be unladen in the United States or any of its territories or possessions: *Provided*, That such statement will not be required, in the case of any shipment, where the beer has been laden on vessels of war, or, in cases other than supplies on vessels employed in the fisheries, where the amount of tax on the beer does not exceed $200. Such statement shall be signed by the master or other officer having knowledge of the facts and immediately above the signature there will appear the following statement: "I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct." In the case of beer for use as supplies on vessels employed in the fisheries, compliance with the provisions of § 245.290a is required. On receipt of a satisfactory statement (if required) and the original of customs Form 5125, bearing final certification by the collector of customs as to proper accounting of the beer (if required), the assistant regional commissioner will enter proper credit in the export account. In the case of beer laden on vessels of war, or in cases other than supplies on vessels employed in the fisheries, where the amount of the tax on the beer does not exceed $200, credit will be given at the time of receipt of the certificate of inspection and lading executed by the inspector of customs, as provided in § 245.276.

(68A Stat. 612; 26 U. S. C. 5053)

The purpose of this Treasury decision is to conform the applicable Internal Revenue Service regulations with Treasury Decision 53935 which amended Customs regulations to define the type of vessels engaged in the fisheries which are entitled to withdraw distilled spirits, wines, and beer for use as supplies. It is necessary that the regulations in 26 CFR parts 182, 225, 240, and 245 conform with the amended Customs regulations as early as possible. Inasmuch as Treasury Decision 53935 became effective November 5, 1955, it is hereby found that it is impracticable and contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4 (c) of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003 (c)). Accordingly, this Treasury decision shall be effective on the date of its publication in the FEDERAL REGISTER.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805.)

[SEAL] RUSSELL C. HARRINGTON,
Commissioner of Internal Revenue.

Approved: May 31, 1956.

DAN THROOP SMITH,
Special Assistant to the Secretary in Charge of Tax Policy.

[F. R. Doc. 56-4488; Filed, June 7, 1956; 8:45 a. m.]

[T. D. 6181]

PART 252—DRAWBACK ON LIQUORS EXPORTED

SUPPLIES ON VESSELS EMPLOYED IN THE FISHERIES TO CONFORM WITH CUSTOMS REGULATIONS AND EXPORTATION OF TAX-PAID BEER

On July 28, 1955, a notice of proposed rule making with respect to the amendment of the above-entitled regulations was published in the FEDERAL REGISTER (20 F. R. 5400) to conform such regulations with the Bureau of Customs regulations as amended by Treasury Decision 53935 (20 F. R. 8329) to define the types of vessels employed in the fisheries which are entitled to withdraw distilled spirits, wines, and beer for use as supplies on such vessels, pursuant to section 309 (a) of the Tariff Act of 1930 (19 U. S. C. 1309 (a)).

No data, views, or arguments were received within the period of 30 days from the date of such publication.

The amendments of 26 CFR Part 252 as set forth below are hereby adopted:

PARAGRAPH 1. Section 252.3 is amended by inserting, immediately following the word "fisheries" in paragraphs (b) and (e), the phrase: "as provided in § 252.3a".

PAR. 2. Immediately following § 252.3, the following new section is added:

§ 252.3a *Vessels employed in the fisheries.* Distilled spirits, wines, and beer may be shipped and laden with benefit of drawback on fishing vessels under the provisions of paragraphs (b) and (e) of § 252.3 only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the collector of customs is satisfied by reason of the quantity requested, in the light of (a) whether the vessel is employed in substantially continuous fishing activities, and (b) the vessel's complement, that none of the withdrawn articles is intended to be removed from the vessel in, or otherwise returned to, the United States. Such shipment and lading shall be conditioned upon compliance with the applicable provisions of this part. Lading of such articles for use on such vessels shall be subject to approval by the collector of customs of a special written application, in duplicate, on customs Forms 5125, of the exporter and designation by the applicant in Part 1 of the notice Form 1582, 1582-A or 1582-B, as the case may be, that the articles are to be laden for use as supplies on a vessel employed in the fisheries. The original application on customs Form 5125, after approval, shall be stamped with the withdrawn number (entry number on Form 1582, 1582-A or 1582-B) and date thereof and shall be returned by the collector of customs to the exporter for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented thereafter by the exporter or the vessel's master to the collector of customs within 24 hours (excluding any period during which the customhouse is not open for general customs business) after each subsequent arrival of the vessel at a customs port or station and that an accounting shall be made at the time of such presentation of the disposition of the articles until the collector of customs is satisfied that all of them have been consumed on board, or landed under customs supervision, and takes up the authorization. The approval of Customs Form 5125 shall be subject to the further condition that any such withdrawn articles remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the collector for the port or place of arrival shall deem necessary. When such articles have been accounted for to the satisfaction of the collector of customs, he shall so certify on the completed customs Form 5125 taken up from the exporter or the vessel's master and forward the form to the assistant regional commissioner for the region in which the claim for drawback is required to be filed. In the event of a failure on the part of the exporter or the master of the vessel to comply with the conditions of the application or upon receipt of evidence that the articles were not lawfully used as supplies on the vessel, the collector of customs will advise the assistant regional commissioner for the region in which the claim for drawback is required to be filed of all the facts in the case for determination as to whether to make demand upon the principal and the surety on the bond in accordance with the provisions of § 252.125, or to disallow the claim as the case may be.

PAR. 3. Section 252.41 is amended to read as follows:

§ 252.41 *General.* Whenever, as to any shipment, a certificate of foreign landing, as provided by § 252.114, is required by the assistant regional commissioner or an affidavit as to lading and intended use is required under the provisions of § 252.115, or an accounting of the spirits or wines is required as provided in § 252.3a, and the exporter desires drawback on the shipment of distilled spirits or wines under the provisions of this subpart prior to submission of such certificate or affidavit to the assistant regional commissioner, or accounting for the distilled spirits or wines as provided in § 252.3a, he shall file bond in accordance with the provisions of this subpart.

PAR. 4. Section 252.43 is amended by striking the period at the end thereof and adding the following: "or, in the case of withdrawals for supplies on vessels employed in the fisheries, until the original of Customs Form 5125, bearing final certification by the collector of customs as to proper accounting of the spirits or wines is submitted as required in § 252.3a."

PAR. 5. The second sentence of § 252.45, which begins "The liability under", is amended by striking the comma at the end of the phrase "lading for use on vessels," and inserting the following: "(or, in the case of spirits or wines laden for use on vessels employed in the fisheries, the original of Customs Form 5125 bearing final certification by the collector of customs as to proper accounting for such articles),".

PAR. 6. The second sentence of § 252.48, which begins "Credit will be given", is amended by striking the comma at the end of the phrase "supplies on vessels," and inserting the following: "(or, in the case of spirits or wines laden for use on vessels employed in the fisheries, original of Customs Form 5125 bearing final certification by the collector of customs as to proper accounting for such articles),".

PAR. 7. Section 252.115 is amended to read as follows:

§ 252.115 *Evidence of use as supplies on vessels.* If the spirits or wines were laden on board a vessel for use as ship's supplies, there must be submitted promptly to the assistant regional commissioner with whom the claim is filed, a statement of the master or other officer of the vessel on which the articles were laden, having knowledge of the facts, showing that the spirits or wines have been laden and will be used on board the vessel, and that no portion thereof has been or will be landed in the United States or any of its possessions: *Provided,* That such statement will not be required, in case of any shipment, when the distilled spirits or wines are laden on vessels of war or, in cases other than supplies on vessels employed in the fisheries, where the amount of tax on the distilled spirits or wines does not exceed $100. Such statement shall be signed by the master or other officer having knowledge of the facts and immediately above the signature there will appear the following statement: "I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct." In the case of vessels employed in the fisheries, compliance with the provisions of § 252.3a is required.

PAR. 8. Section 252.119 is amended as follows:

(A) By inserting, immediately following "for use on vessels,", the following: "compliance with § 252.3a,"; and

(B) By striking the period at the end of the section and adding: ", and, where required under the provisions of § 252.3a, acounting for such spirits or wines shall be accomplished within such time as the collector of customs shall consider reasonable."

PAR. 9. The first sentence in § 252.121 is amended as follows:

(A) By inserting, immediately following "vessels or aircraft," the following: "or an accounting of the spirits or wines,"; and

(B) By inserting, immediately following "provisions of this subpart," the following: "or § 252.3a,".

PAR. 10. Section 252.122 is amended as follows:

(A) By inserting in the first sentence, immediately following "supplies on vessels,", the following: "or to account for the distilled spirits or wines where required by § 252.3a,"; and

(B) By inserting in the third sentence, which begins "The application shall", immediately following "for use as supplies", the following: "(or accounting for the spirits or wines)".

PAR. 11. Section 252.124 is amended to read as follows:

§ 252.124 *Approval of relief application.* If the assistant regional commissioner is satisfied from the evidence presented that the spirits or wines were duly exported from the United States and were landed at the designated foreign port or, for a good and sufficient reason, at some other port outside the jurisdiction of the United States, or were laden as supplies on vessels or were, in the case of spirits or wines laden as supplies on vessels employed in the fisheries, consumed or lost at sea and not relanded in the United States, its territories or possessions, and that the failure of the applicant to furnish the prescribed evidence of landing, or lading for use as supplies on vessels, or to account for the spirits or wines when required by § 252.3a, was not occasioned by any lack of diligence on his part or that of his agents, and, in the case of supplies on vessels employed in the fisheries, the master of the vessel, and that the applicant is unable to produce any other or better evidence than that submitted with the application, he will indorse his approval on the application, and enter proper credit in the account kept with the drawback bond or allow the claim, as the case may be.

PAR. 12. The first sentence of § 252.125 is amended as follows:

(A) By inserting, immediately following "for use as supplies,", the following: "or the spirits or wines are not accounted for,"; and

(B) By striking the comma at the end of the phrase "as required in this subpart," and inserting: "or § 252.3a,".

PAR. 13. Section 252.151 is amended to read as follows:

§ 252.151 *Authorized withdrawals.* Taxpaid beer, brewed or produced in the United States, may be withdrawn by the owner of the beer from a brewery or any other place of storage for exportation or for use as supplies on vessels or aircraft. Claim for drawback of taxes found to have been paid may be filed only by the producing brewer or his duly authorized agent.

PAR. 14. Section 252.152 is amended as follows:

(A) By striking, in the first sentence, the words: "Entry No. ___," and, "and the port of exporation"; and

(B) By striking the second sentence which begins: "The entry number assigned".

PAR. 15. The undesignated center heading preceding § 252.153 and § 252.153 are amended to read as follows:

CLAIM REQUIRED

§ 252.153 *Beer exported, deposited in foreign-trade zones, or used as supplies on vessels or aircraft.* Claim for allowance of drawback of internal revenue taxes on beer brewed or produced in the United States shall be prepared on Form 1582–B as required in this subpart.

PAR. 16. The undesignated center heading preceding § 252.154 and § 252.154 are amended to read as follows:

EXECUTION OF CLAIM

§ 252.154 *Withdrawals of beer by brewer from brewery.* When taxpaid beer is removed from a brewery for exportation, for lading as supplies on vessels or aircraft, or for deposit in a foreign-trade zone, the brewer will execute part 1 and part 3 of Form 1582–B, in triplicate. Each Form 1582–B shall be given a serial number beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive. Upon removal of the beer for shipment the brewer will immediately file one copy of Form 1582–B with the assistant regional commissioner of the region in which the producing brewery is located, and:

(a) Immediately forward the original and one copy of Form 1582–B to the collector of customs at the port of export; or,

(b) In the case of shipments to the Armed Services of the United States for export, immediately forward the original and one copy of Form 1582–B to the commanding or supply officer to whom the shipment is consigned: or,

(c) In the case of shipments to a foreign-trade zone, immediately forward the original and one copy of Form 1582–B to the customs officer in charge of the foreign-trade zone.

Where the brewer operates more than one brewery in different regions, the brewer will file the copy of Form 1582–B on which the claim for drawback is executed with the assistant regional commissioner of the region in which the principal office of the brewery is located.

PAR. 17. Immediately following § 252.154, a new § 252.154a is added, which reads as follows:

§ 252.154a *Removals of beer by agent on behalf of brewer.* Where proper power of attorney authorizing an agent to execute a claim on behalf of the brewer has been filed on Form 1534 with the assistant regional commissioner, such agent may remove taxpaid beer from the brewery where produced or from its place of storage elsewhere, and execute part 1 and part 3 of Form 1582–B on behalf of the brewer. Each Form 1582–B shall be given a serial number beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive. Such agent will prepare and dispose of Form 1582–B in accordance with the applicable procedure set forth in § 252.154.

PAR. 18. Section 252.155 is amended to read as follows:

§ 252.155 *Removals of beer by persons other than the brewer or his agent.* Where there is a removal of taxpaid beer by a person other than the brewer or the agent of the brewer for export, or for supplies on vessels or aircraft, or for deposit in a foreign-trade zone, such person shall execute part 1 of Form 1582–B, in triplicate. Where the exportation consists of the products of more than one brewer, a separate Form 1582–B must be prepared for the products of each brewer. Each Form 1582–B shall be given a serial number beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive. Infor-

mation called for shall be furnished in accordance with the instructions on the form or issued in respect thereto. Upon removal of the beer for shipment such person will immediately forward one copy of Form 1582–B to the producing brewer, and:

(a) Immediately forward the original and one copy of Form 1582–B to the collector of customs at the port of export; or,

(b) In the case of shipments to the Armed Services of the United States for export, immediately forward the original and one copy of Form 1582–B to the commanding or supply officer to whom the shipment is consigned; or,

(c) In the case of shipments to a foreign-trade zone, immediately forward the original and one copy of Form 1582–B to the customs officer in charge of the foreign-trade zone.

Upon receipt of the copy of Form 1582–B from the exporter, the brewer will, if he wishes to claim drawback on the beer covered thereby, execute the claim for drawback on part 3 of the form and file the claim with the assistant regional commissioner of his region. Where the claim is not filed with the assistant regional commissioner within six months after the date shown in the certificate of removal in part 1 of the form, the applicable provisions of §§ 252.166 to 252.169, relating to evidence of exportation or lading for use on vessels and aircraft shall apply.

PAR. 19. Section 252.157 is amended to read as follows:

§ 252.157 *Direct delivery for customs inspection; bill of lading.* If the premises from which the shipment is made are located at the port of exportation, the beer shall be delivered directly for customs inspection and supervision of lading, and a copy of the export bill of lading shall be promptly forwarded to the assistant regional commissioner of the region in which the claim for drawback is filed: *Provided,* That an export bill of lading will not be required, (a) in the case of shipments to the Armed Services, where the shipment will be delivered to the commanding officer or supply officer to whom consigned, or (b) in the case of shipment for lading for use as supplies on vessels or aircraft.

PAR. 20. Section 252.158 is amended to read as follows:

§ 252.158 *Exportation by vessel.* If the premises from which the shipment is made are located elsewhere than at the port of exportation, the beer shall be delivered either directly for customs inspection and supervision of lading, or to a carrier for transportation to the port of exportation and a copy of the export bill of lading shall be promptly forwarded to the assistant regional commissioner of the region in which the claim for drawback is filed.

PAR. 21. Section 252.159 is amended by striking from the third sentence the words "brewer or his agent" and inserting in lieu thereof the word "exporter".

PAR 22. Section 252.162 is amended by striking from the third sentence the word "one" and inserting in lieu thereof the words "the original".

PAR. 23. Section 252.165 is amended to read as follows:

§ 252.165 *Evidence of lading for use on vessels or aircraft.* When beer has been laden on board a vessel or aircraft for use as ship's supplies or supplies for aircraft, there must be submitted promptly to the assistant regional commissioner a statement of the master or other officer of the vessel or aircraft on which the articles were laden, having knowledge of the facts, showing that the beer has been laden and will be used as supplies on board the vessel or aircraft, and that no portion thereof has been or will be unladen in the United States or any of its territories or possessions: *Provided,* That such statement will not be required, in the case of any shipment, when the beer has been laden on vessels of war, or, in cases other than supplies on vessels employed in the fisheries, where the amount of tax on the beer does not exceed $200 and in such case certification by the customs officer of inspection and lading for use will be considered evidence of lading or use. Such statement shall be signed by the master or other officer having knowledge of the facts and immediately above the signature there will appear the following statement: "I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct." In the case of vessels employed in the fisheries, compliance with the provisions of § 252.3a is required.

Paragraphs 13 to 22, inclusive, of this Treasury decision (identical to the amendments published in the FEDERAL REGISTER for March 27, 1956 (21 F. R. 1858)) are effective May 1, 1956. The purpose of paragraphs 1 to 12, inclusive, and paragraphs 23 of this Treasury decision is to conform the applicable provisions of 26 CFR Part 252 with Treasury Decision 53935, which amended Customs regulations to define the type of vessels engaged in the fisheries which are entitled to withdraw distilled spirits, wines, and beer for use as supplies. It is necessary that the regulations in 26 CFR Part 252 conform with the amended Customs regulations as early as possible. Inasmuch as Treasury Decision 53935 became effective November 5, 1955, it is hereby found that it is impracticable and contrary to the public interest to issue paragraphs 1 to 12, inclusive, and paragraph 23 of this Treasury decision subject to the effective date limitation of section 4 (c) of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003 (c)). Accordingly, paragraphs 1 to 12, inclusive, and paragraph 23 of this Treasury decision shall be effective on the date of publication in the FEDERAL REGISTER of this Treasury decision.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.
RALPH KELLY,
Commissioner of Customs.

Approved: June 4, 1956.

DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 56-4489; Filed, June 7, 1956; 8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 11611]

PART 4—EXPERIMENTAL AND AUXILIARY BROADCAST SERVICES

OPERATION OF TV TRANSLATOR STATIONS IN CONJUNCTION WITH PRIMARY TRANSMITTER

In the matter of amendment of Commission's rules and regulations to permit the operation of TV translator stations in conjunction with the primary transmitter.

1. A Report and Order (FCC 56-488) in the above proceeding released on May 24, 1956 contains an incorrect reference in § 4.781 (a) (3).

2. Section 4.781 (a) (3) as corrected reads as follows:

(3) Time of periodic observation required by § 4.734 (a) (2), and operating conditions signed by the operator making the observation.

Released: June 5, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-4510; Filed, June 7, 1956; 8:50 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

INVOLUNTARY CONVERSIONS

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, considerations, will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T: P, Washington 25, D. C., within the period of 30 days from the

date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

The following regulations for taxable years beginning after December 31, 1953, and ending after August 16, 1954, are hereby prescribed uuder section 1033 of the Internal Revenue Code of 1954:

Sec.

§ 1.1033 (a) *Statutory provisions; common nontaxable exchanges; involuntary conversions; general rule.*

SEC. 1033. *Involuntary conversions*—(a) *General rule.* If property (as a result of its destruction in whole or in part, theft, seizure, or requisition or condemnation or threat or imminence thereof) is compulsorily or involuntarily converted—

(1) *Conversion into similar property.* Into property similar or related in service or use to the property so converted, no gain shall be recognized.

(2) *Conversion into money where disposition occurred prior to 1951.* Into money, and the disposition of the converted property occurred before January 1, 1951, no gain shall be recognized if such money is forthwith in good faith, under regulations prescribed by the Secretary or his delegate, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund. If any part of the money is not so expended, the gain shall be recognized to the extent of the money which is not so expended (regardless of whether such money is received in one or more taxable years and regardless of whether or not the money which is not so expended constitutes gain). For purposes of this paragraph and paragraph (3), the term "disposition of the converted property" means the destruction, theft, seizure, requisition, or condemnation of the converted property, or the sale or exchange of such property under threat or imminence of requisition or condemnation.

(3) *Conversion into money where disposition occurred after 1950.* Into money or into property not similar or related in service or use to the converted property, and the disposition of the converted property (as defined in paragraph (2)) occurred after December 31, 1950, the gain (if any) shall be recognized except to the extent hereinafter provided in this paragraph:

(A) *Nonrecognition of gain.* If the taxpayer during the period specified in subparagraph (B), for the purpose of replacing the property so converted, purchases other property similar or related in service or use to the property so converted, or purchases stock in the acquisition of control of a corporation owning such other property, at the election of the taxpayer the gain shall be recognized only to the extent that the amount realized upon such conversion (regardless of whether such amount is received in one or more taxable years) exceeds the cost of such other property or such stock. Such election shall be made at such time and in such manner as the Secretary or his delegate may by regulations prescribe. For purposes of this paragraph—

(i) No property or stock acquired before the disposition of the converted property shall be considered to have been acquired for the purpose of replacing such converted property unless held by the taxpayer on the date of such disposition; and

(ii) The taxpayer shall be considered to have purchased property or stock only if, but for the provisions of subsection (c) of this section, the unadjusted basis of such property or stock would be its cost within the meaning of section 1012.

(B) *Period within which property must be replaced.* The period referred to in subparagraph (A) shall be the period beginning with the date of the disposition of the converted property, or the earliest date of the threat or imminence of requisition or condemnation of the converted property, whichever is the earlier, and ending—

(i) One year after the close of the first taxable year in which any part of the gain upon the conversion is realized, or

(ii) Subject to such terms and conditions as may be specified by the Secretary or his delegate, at the close of such later date as the Secretary or his delegate may designate on application by the taxpayer. Such application shall be made at such time and in such manner as the Secretary or his delegate may by regulations prescribe.

(C) *Time for assessment of deficiency attributable to gain upon conversion.* If a taxpayer has made the election provided in subparagraph (A), then—

(i) The statutory period for the assessment of any deficiency, for any taxable year in which any part of the gain on such conversion is realized, attributable to such gain shall not expire prior to the expiration of 3 years from the date the Secretary or his delegate is notified by the taxpayer (in such manner as the Secretary or his delegate may by regulations prescribe) of the replacement of the converted property or of an intention not to replace, and

(ii) Such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of section 6212 (c) or the provisions of any other law or rule of law which would otherwise prevent such assessment.

(D) *Time for assessment of other deficiencies attributable to election.* If the election provided in subparagraph (A) is made by the taxpayer and such other property or such stock was purchased before the beginning of the last taxable year in which any part of the gain upon such conversion is realized, any deficiency, to the extent resulting from such election, for any taxable year ending before such last taxable year may be assessed (notwithstanding the provisions of section 6212 (c) or 6501 or the provisions of any other law or rule of law which would otherwise prevent such assessment) at any time before the expiration of the period within which a deficiency for such last taxable year may be assessed.

§ 1.1033 (a)–1 *Involuntary conversions; nonrecognition of gain*—(a) *In general.* Section 1033 applies to cases where property is compulsorily or involuntarily converted. An "involuntary conversion" may be the result of the destruction of property in whole or in part, the theft of property, the seizure of property, the requisition or condemnation of property, or the threat or imminence of requisition or condemnation of property. An "involuntary conversion" may be a conversion into similar property or into money or into dissimilar property. Section 1033 provides that, under certain specified circumstances, any gain which is realized from an involuntary conversion shall not be recognized. In cases where property is converted into other property similar or related in service or use to the converted property, no gain shall be recognized regardless of when the disposition of the converted property occurred and regardless of whether or not the taxpayer elects to have the gain not recognized. In other types of involuntary conversion cases, however, the proceeds arising from the disposition of the converted property must (within the time limits specified) be reinvested in similar property in order to avoid recognition of any gain realized. Different rules for reinvestment apply, depending upon whether the disposition of the converted property occurred after 1950 or before 1951 (see §§ 1.1033 (a)–2, 1.1033 (a)–3, and 1.1033 (a)–4). Section 1033 applies only with respect to gains; losses from involuntary conversions are recognized or not recognized without regard to this section.

(b) *Special rules.* For rules relating to basis of property acquired through involuntary conversion, see § 1.1033 (c)–1. Special rules apply to involuntary conversions of residence property, property sold pursuant to reclamation laws, and livestock destroyed by disease (see §§ 1.1033 (b)–1, 1.1033 (d)–1, and 1.1033 (e)–1, respectively). For determination of the period for which the taxpayer has held property acquired as a result of certain involuntary conversions, see section 1223 and regulations issued thereunder. For treatment of gains from involuntary conversions as capital gains in certain cases, see section 1231 (a) and regulations issued thereunder. For portion of war loss recoveries treated as gain on involuntary conversion, see section 1332 (b) (3) and regulations issued thereunder.

§ 1.1033 (a)–2 *Involuntary conversion where disposition of the converted property occurred after December 31, 1950*—(a) *In general.* This section applies only with respect to involuntary conversions where the disposition of the converted property occurred after December 31, 1950, and where the proceeds are received in a taxable year to which the Internal Revenue Code of 1954 applies. The term "disposition of the converted property" means the destruction, theft, seizure, requisition, or condemnation of the converted property, or the sale or exchange of such property under threat or imminence of requisition or condemnation.

(b) *Conversion into similar property.* If property (as a result of its destruction in whole or in part, theft, seizure, or requisition or condemnation or threat or imminence thereof) is compulsorily or involuntarily converted only into property similar or related in service or use to the property so converted, no gain shall be recognized. Such nonrecognition of gain is mandatory.

(c) *Conversion into money or into dissimilar property.* (1) If property (as a result of its destruction in whole or in part, theft, seizure, or requisition or condemnation or threat or imminence thereof) is compulsorily or involuntarily converted into money or into property not similar or related in service or use to the converted property, the gain, if any, shall be recognized, at the election of the taxpayer, only to the extent that the amount realized upon such conversion exceeds the cost of other property purchased by the taxpayer which is similar or related in service or use to the property so converted, or the cost of stock of a corporation owning such other property which is purchased by the taxpayer in the acquisition of control of such corporation, if the taxpayer purchased such other property, or such stock, for the purpose of replacing the property so converted and during the period specified in subparagraph (3) of this paragraph.

(2) All of the details in connection with an involuntary conversion of property at a gain (including those relating to the replacement of the converted property, or a decision not to replace, or the expiration of the period for replacement) shall be reported in the return for the taxable year or years in which any of such gain is realized. An election to have such gain recognized only to the extent provided in subparagraph (1) of this paragraph shall be made by including such gain in gross income for such year or years only to such extent. If, at the time of filing such a return, the period within which the converted property must be replaced has expired, or if such an election is not desired, the gain should be included in gross income for such year or years in the regular manner. A failure to so include such gain in gross income in the regular manner shall be deemed to be an election by the taxpayer to have such gain recognized only to the extent provided in subparagraph (1) of this paragraph even though the details in connection with the conversion are not reported in such return. If, after having made an election under section 1033 (a) (3), the converted property is not replaced within the required period of time, or replacement is made at a cost lower than was anticipated at the time of the election, or a decision is made not to replace, the tax liability for the year or years for which the election was made shall be recomputed. Such recomputation should be in the form of an "amended return". If a decision is made to make an election under section 1033 (a) (3) after the filing of the return and the payment of the tax for the year or years in which any of the gain on an involuntary conversion is realized and before the expiration of the period within which the converted property must be replaced, a claim for credit or refund for such year or years should be filed. If the replacement of the converted property occurs in a year or years in which none of the gain on the conversion is realized, all of the details in connection with such replacement shall be reported in the return for such year or years.

(3) The period referred to in subparagraphs (1) and (2) of this paragraph is the period of time commencing with the date of the disposition of the converted property, or the date of the beginning of the threat or imminence of requisition or condemnation of the converted property, whichever is earlier, and ending one year after the close of the first taxable year in which any part of the gain upon the conversion is realized, or at the close of such later date as may be designated pursuant to an application of the taxpayer. Such application shall be made prior to the expiration of the one year after the close of the first taxable year in which any part of the gain from the conversion is realized, and shall contain all of the details in connection with the involuntary conversion. Such application shall be made to the district director for the internal revenue district in which the return is filed for the first taxable year in which any of the gain from the involuntary conversion is realized. No extension of time shall be granted pursuant to such application unless the taxpayer can show reasonable cause for not being able to replace the converted property within the required period of time.

(4) Property or stock purchased before the disposition of the converted property shall be considered to have been purchased for the purpose of replacing the converted property only if such property or stock is held by the taxpayer on the date of the disposition of the converted property. Property or stock shall be considered to have been purchased only if, but for the provisions of section 1033 (c), the unadjusted basis of such property or stock would be its cost to the taxpayer within the meaning of section 1012. If the taxpayer's unadjusted basis of the replacement property would be determined, in the absence of section 1033 (c), under any of the exceptions referred to in section 1012, the unadjusted basis of the property would not be its cost within the meaning of section 1012. For example, if property similar or related in service or use to the converted property is acquired by gift and its basis is determined under section 1015, such property will not qualify as a replacement for the converted property.

(5) If a taxpayer makes an election under section 1033 (a) (3), any deficiency, for any taxable year in which any part of the gain upon the conversion is realized, which it attributable to such gain may be assessed at any time before the expiration of three years from the date the district director with whom the return for such year has been filed is notified by the taxpayer of the replacement of the converted property or of an intention not to replace, or of a failure to replace, within the required period, notwithstanding the provisions of section 6212 (c) or the provisions of any other law or rule of law which would otherwise prevent such assessment. If replacement has been made, such notification shall contain all of the details in connection with such replacement. Such notification should be made in the return for the taxable year or years in which the replacement occurs, or the intention not to replace is formed, or the period for replacement expires, if this return is filed with such district director. If this return is not filed with such district director, then such notification shall be made to such district director at the time of filing this return. If the taxpayer so desires, he may, in either event, also notify such district director before the filing of such return.

(6) If a taxpayer makes an election under section 1033 (a) (3) and the replacement property or stock was purchased before the beginning of the last taxable year in which any part of the gain upon the conversion is realized, any deficiency, for any taxable year ending before such last taxable year, which is attributable to such election may be assessed at any time before the expiration of the period within which a deficiency for such last taxable year may be assessed, notwithstanding the provisions of section 6212 (c) or 6501 or the provisions of any law or rule of law which would otherwise prevent such assessment.

(7) If the taxpayer makes an election under section 1033 (a) (3), the gain upon the conversion shall be recognized to the extent that the amount realized upon such conversion exceeds the cost of the replacement property or stock, regardless of whether such amount is realized in one or more taxable years.

(8) The proceeds of a use and occupancy insurance contract, which by its terms insured against actual loss sustained of net profits in the business, are not proceeds of an involuntary conversion but are income in the same manner that the profits for which they are substituted would have been.

(9) There is no investment in property similar in character and devoted to a similar use if—

(i) The proceeds of unimproved real estate, taken upon condemnation proceedings, are invested in improved real estate.

(ii) The proceeds of conversion of real property are applied in reduction of indebtedness previously incurred in the purchase of a leasehold.

(iii) The owner of a requisitioned tug uses the proceeds to buy barges.

(10) If, in a condemnation proceeding, the Government retains out of the award sufficient funds to satisfy special assessments levied against the remaining portion of the plot or parcel of real estate affected for benefits accruing in connection with the condemnation, the amount so retained shall be deducted from the gross award in determining the amount of the net award.

(11) If, in a condemnation proceeding, the Government retains out of the award sufficient funds to satisfy liens (other than liens due to special assessments levied against the remaining portion of the plot or parcel of real estate affected for benefits accruing in connection with the condemnation) and mortgages against the property, and itself pays the same, the amount so retained shall not be deducted from the gross award in determining the amount of the net award. If, in a condemnation proceeding, the Government makes an award to a mortgagee to satisfy a mortgage on the condemned property, the amount of such award shall be considered as a part of the "amount realized" upon the conversion regardless of whether or not the taxpayer was personally liable for the mortgage debt.

(12) An amount expended for replacement of an asset, in excess of the recovery for loss, represents a capital expenditure and is not a deductible loss for income tax purposes.

§ 1.1033 (a)-3 *Involuntary conversion where disposition of the converted property occurred before January 1, 1951.* (a) This section applies only with respect to involuntary conversions where the disposition of the converted property occurred before January 1, 1951, and where the proceeds are received in a taxable year to which the Internal Revenue Code of 1954 applies. The term "disposition of the converted property" means the destruction, theft, seizure, requisition, or condemnation of the converted property, or the sale or exchange of such property under threat or imminence of requisition or condemnation.

(b) (1) Upon the involuntary conversion of property described in section 1033, no gain is recognized if the provisions of that section are complied with. If any part of the money received as a result of such an involuntary conversion is not expended in the manner provided in section 1033 (a) (2), the gain, if any, is recognized to the extent of the money which is not so expended. For example, a vessel purchased by A in 1949 for $100,000 is destroyed by a typhoon in 1950, and A receives in 1954 insurance in the amount of $100,000. This money is not expended in the manner provided in section 1033 (a) (2), but there is no gain since the insurance does not exceed the basis (disregarding, for the purposes of this example, the adjustment for depreciation). In 1955, A receives insurance from a second policy of $200,000 on account of the destruction of the vessel. He expends this amount in the manner provided in section 1033 (a) (2). The gain in 1955 upon the receipt of the $200,000 is recognized to the extent of $100,000, the amount of the money received in 1954 which was not expended in the manner provided in section 1033 (a) (2).

(2) Losses from involuntary conversions are recognized or not recognized without regard to section 1033. The expenditure in the manner provided in section 1033 (a) (2) of money received upon an involuntary conversion is not necessary for the transaction to be considered completed for the purpose of determining such loss.

(c) In order to avail himself of the benefits of section 1033 (a) (2) it is not sufficient for the taxpayer to show that subsequent to the receipt of money from a condemnation award he purchased other property similar or related in use. The taxpayer must trace the proceeds of the award into the payments for the property so purchased. It is not necessary that the proceeds be earmarked, but the taxpayer must be able to prove that the same were actually reinvested in such other property similar or related in use to the property converted. The benefits of section 1033 (a) (2) cannot be extended to a taxpayer who does not purchase other property similar or related in service or use, notwithstanding the fact that there was no other such property available for purchase.

(d) If, in a condemnation proceeding, the Government retains out of the award sufficient funds to satisfy liens (other than liens due to special assessments levied against the remaining portion of the plot or parcel of real estate affected for benefits accruing in connection with the condemnation) and mortgages against the property and itself pays the same, the amount so retained shall not be deducted from the gross award in determining the amount of the net award. If, in a condemnation proceeding, the Government makes an award to a mortgagee to satisfy a mortgage on the condemned property, the amount of such award shall be considered as a part of the "amount realized" upon the conversion regardless of whether or not the taxpayer was personally liable for the mortgage debt. An amount expended for replacement of an asset, in excess of the recovery for loss, represents a capital expenditure and is not a deductible loss for income tax purposes.

(e) The provisions of section 1033 (a) (2) are applicable to property used for residential or farming purposes.

(f) The proceeds of a use and occupancy insurance contract, which by its terms insured against actual loss sustained of net profits in the business, are not proceeds of an involuntary conversion but are income in the same manner that the profits for which they are substituted would have been.

(g) There is no investment in property similar in character and devoted to a similar use if—

(1) The proceeds of unimproved real estate, taken upon condemnation proceedings, are invested in improved real estate.

(2) The proceeds of conversion of real property are applied in reduction of indebtedness previously incurred in the purchase of a leasehold.

(3) The owner of a requisitioned tug uses the proceeds to buy barges.

(h) It is incumbent upon a taxpayer "forthwith" to apply for and receive permission to establish a replacement fund in every case where it is not possible to replace immediately. If an expenditure in actual replacement would be too late, a request for the establishment of a replacement fund would likewise be too late.

NOTE: This section is substantially the same as § 29.112 (f)-1 (Regulations 111).

§ 1.1033 (a)-4 *Replacement funds where disposition of the converted property occurred before January 1, 1951.* (a) This section applies only with respect to involuntary conversions where the disposition of the converted property (as defined in § 1.1033 (a)-3) occurred before January 1, 1951, and where the proceeds are received in a taxable year to which the Internal Revenue Code of 1954 applies.

(b) In any case where the taxpayer elects to replace or restore the converted property but it is not practicable to do so immediately (for example, because of a shortage of materials or an industry-wide strike), he may obtain permission to establish a replacement fund in his accounts in which part or all of the compensation so received shall be held, without deduction for the payment of any mortgage. In such a case the taxpayer should make application on Form 1114 to the district director for the district in which his return is required to be filed for permission to establish such a replacement fund, and in his application should recite all the facts relating to the transaction and declare that he will proceed as expeditiously as possible to replace or restore such property. The taxpayer will be required to furnish a bond with such surety as the district director may require in an amount not in excess of double the estimated additional income taxes which would be payable if no replacement fund were established. See 6 U. S. C. 15 (Appendix to the Income Tax Regulations), providing that where a bond is required by law or regulations, in lieu of surety or sureties there may be deposited bonds or notes of the United States. The estimated additional taxes, for the amount of which the applicant is required to furnish security, should be computed at the rates at which the applicant would have been obliged to pay, taking into consideration the remainder of his taxable (or net) income and resolving against him all matters in dispute affecting the amount of the tax. Only surety companies holding certificates of authority from the Secretary of the Treasury as acceptable sureties on Federal bonds will be approved as sureties. The application should be executed in triplicate, so that the district director, the applicant, and the surety or depositary may each have a copy.

NOTE: This section is substantially the same as § 29.112 (f)-2 (Regulations 111).

§ 1.1033 (b) *Statutory provisions; involuntary conversions; residence of taxpayer.*

SEC. 1033. *Involuntary conversions.* * * *

(b) *Residence of taxpayer.* Subsection (a) shall not apply, in the case of property used by the taxpayer as his principal residence, if the destruction, theft, seizure, requisition, or condemnation of the residence, or the sale or exchange of such residence under threat or imminence thereof, occurred after December 31, 1950, and before January 1, 1954.

§ 1.1033 (b)–1 *Involuntary conversion of principal residence.* Section 1033 shall apply in the case of property used by the taxpayer as his principal residence if the destruction, theft, seizure, requisition, or condemnation of such residence, or the sale or exchange of such residence under threat or imminence thereof, occurs before January 1, 1951, or after December 31, 1953. Section 1033 shall not apply in the case of an involuntary conversion of property used by the taxpayer as his principal residence if the destruction, theft, seizure, requisition or condemnation of such residence, or the sale or exchange of such residence under threat or imminence thereof, occurred after December 31, 1950, and before January 1, 1954. In the case of property disposed of after December 31, 1950, and before January 1, 1954, which is used by the taxpayer partially as a principal residence and partially for other purposes, proper allocation shall be made and § 1.1033 (a)–2 and § 1.1033 (c)–1 shall apply only with respect to the involuntary conversion of the portion used for such other purposes.

§ 1.1033 (c) *Statutory provisions; involuntary conversions; basis of property acquired through involuntary conversion.*

SEC. 1033. *Involuntary conversions.* * * *

(c) *Basis of property acquired through involuntary conversion.* If the property was acquired, after February 28, 1913, as the result of a compulsory or involuntary conversion described in subsection (a) (1) or (2), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made. This subsection shall not apply in respect of property acquired as a result of a compulsory or involuntary conversion of property used by the taxpayer as his principal residence if the destruction, theft, seizure, requisition, or condemnation of such residence, or the sale or exchange of such residence under threat or imminence thereof, occurred after December 31, 1950, and before January 1, 1954. In the case of property purchased by the taxpayer in a transaction described in subsection (a) (3) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than one piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

§ 1.1033 (c)–1 *Basis of property acquired as a result of an involuntary conversion.* (a) The provisions of the first sentence of section 1033 (c) may be illustrated by the following example:

Example. A's vessel which has an adjusted basis of $100,000 is destroyed in 1950 and A receives in 1951 insurance in the amount of $200,000. If A invests $150,000 in a new vessel, taxable gain to the extent of $50,000 would be recognized. The basis of the new vessel is $100,000; that is, the adjusted basis of the old vessel ($100,000) minus the money received by the taxpayer which was not expended in the acquisition of the new vessel ($50,000) plus the amount of gain recognized upon the conversion ($50,000). If any amount in excess of the proceeds of the conversion is expended in the acquisition of the new property, such amount may be added to the basis otherwise determined.

(b) The provisions of the last sentence of section 1033 (c) may be illustrated by the following example:

Example. A taxpayer realizes $22,000 from the involuntary conversion of his barn in 1955; the adjusted basis of the barn to him was $10,000, and he spent in the same year $20,000 for a new barn which resulted in the nonrecognition of $10,000 of the $12,000 gain on the conversion. The basis of the new barn to the taxpayer would be $10,000—the cost of the new barn ($20,000) less the amount of the gain not recognized on the conversion ($10,000). The basis of the new barn would not be a substituted basis in the hands of the taxpayer within the meaning of section 1016 (b) (2). If the replacement of the converted barn had been made by the purchase of two smaller barns which, together, were similar or related in service or use to the converted barn and which cost $8,000 and $12,000, respectively, then the basis of the two barns would be $4,000 and $6,000, respectively, the total basis of the purchased property ($10,000) allocated in proportion to their respective costs ($8,000/20,000 of $10,000 or $4,000; and 12,000/20,000 of $10,000, or $6,000).

§ 1.1033 (d) *Statutory provisions; involuntary conversions; property sold pursuant to reclamation laws.*

SEC. 1033. *Involuntary conversions.* * * *

(d) *Property sold pursuant to reclamation laws.* For purposes of this subtitle, if property lying within an irrigation project is sold or otherwise disposed of in order to conform to the acreage limitation provisions of Federal reclamation laws, such sale or disposition shall be treated as an involuntary conversion to which this section applies.

§ 1.1033 (d)–1 *Disposition of excess property within irrigation project deemed to be involuntary conversion.* (a) The sale, exchange, or other disposition occurring in a taxable year to which the Internal Revenue Code of 1954 applies, of excess lands lying within an irrigation project or division in order to conform to acreage limitations of the Federal reclamation laws effective with respect to such project or division shall be treated as an involuntary conversion to which the provisions of section 1033 and the regulations thereunder shall be applicable. The term "excess lands" means irrigable lands within an irrigation project or division held by one owner in excess of the amount of irrigable land held by such owner entitled to receive water under the Federal reclamation laws applicable to such owner in such project or division. Such excess lands may be either (1) lands receiving no water from the project or division, or (2) lands receiving water only because the owner thereof has executed a valid recordable contract agreeing to sell such lands under terms and conditions satisfactory to the Secretary of the Interior.

(b) A disposition of excess lands under a plan whereby the owner thereof also disposes of any or all his nonexcess lands within the irrigation project or division shall not be treated as a disposition "in order to conform to the acreage limitation provisions of Federal reclamation laws." A disposition of nonexcess lands at the same time as the disposition of excess lands, or within one year thereof, shall be presumptive of such a plan.

(c) The provisions of § 1.1033 (a)–2 shall be applicable in the case of dispositions treated as involuntary conversions under this section. The details in connection with such a disposition required to be reported under § 1.1033 (a)–2 (c) (2) shall include the authority whereby the lands disposed of are considered "excess lands", as defined in this section, and a statement that such disposition is not part of a plan contemplating the disposition of all or any nonexcess land within the irrigation project or division.

(d) The term "involuntary conversion", where it appears in subtitle A or the regulations thereunder, includes dispositions of excess property within irrigation projects described in this section. (See, e. g., section 1231 and the regulations thereunder.)

§ 1.1033 (e) *Statutory provisions; involuntary conversions; livestock destroyed by disease.*

SEC. 1033. *Involuntary conversions.* * * *

(e) *Livestock destroyed by disease.* For purposes of this subtitle, if livestock are destroyed by or on account of disease, or are sold or exchanged because of disease, such destruction or such sale or exchange shall be treated as an involuntary conversion to which this section applies.

§ 1.1033 (e)–1 *Destruction or disposition of livestock because of disease.* (a) The destruction occurring in a taxable year to which the Internal Revenue Code of 1954 applies, of livestock by, or on account of, disease, or the sale or exchange, in such a year, of livestock because of disease, shall be treated as an involuntary conversion to which the provisions of section 1033 and the regulations thereunder shall be applicable. Livestock which are killed either because they are diseased or because of exposure to disease shall be considered destroyed on account of disease. Livestock which are sold or exchanged because they are diseased or have been exposed to disease, and would not otherwise have been sold or exchanged at that particular time shall be considered sold or exchanged because of disease.

(b) For purposes of this section, the term "livestock" includes all animals which at the time of their destruction or sale or exchange are (1) used in the taxpayer's trade or business, or (2) properly includible in the inventory of

the taxpayer if on hand at the close of the taxable year, or (3) held by the taxpayer primarily for sale to customers in the ordinary course of trade or business.

(c) The provisions of § 1.1033 (a)–2 shall be applicable in the case of a disposition treated as an involuntary conversion under this section. The details in connection with such a disposition required to be reported under § 1.1033 (a)–2 (c) (2) shall include a recital of the evidence that the livestock were destroyed by or on account of disease, or sold or exchanged because of disease.

(d) The term "involuntary conversion," where it appears in subtitle A or the regulations thereunder, includes disposition of livestock described in this section. (See, e. g., section 1231 and the regulations thereunder.)

§ 1.1033 (f) *Statutory provisions; involuntary convertions; cross references.*

SEC. 1033. *Involuntary conversions.* * * *

(f) *Cross references.* (1) For determination of the period for which the taxpayer has held property involuntarily converted, see section 1223.

(2) For treatment of gains from involuntary conversions as capital gains in certain cases, see section 1231 (a).

§ 1.1033 (f)–1 *Effective date.* The provisions of section 1033 and the regulations thereunder are effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954, the date of enactment of the Internal Revenue Code of 1954. See section 7851 (a) (1) (A).

[F. R. Doc. 56–4490; Filed, June 7, 1956; 8:46 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 924]

[Docket No. AO–225–A7]

HANDLING OF MILK IN DETROIT, MICHIGAN, MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed order, amending the order, as amended, regulating the handling of milk in the Detroit, Michigan, marketing area. Interested parties may file written exception to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business the 20th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing, on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, as amended, were formulated, was conducted at Detroit, Michigan, on February 28 through March 7, 1956, pursuant to notice thereof which was issued February 7, 1956 (21 F. R. 953).

The material issues considered on the record of the hearing related to the following:

1. Extension of the marketing area;
2. Modification of the performance standards for determining the status of pool plants;
3. Division of the present Class II into two separate classes, with separate price provisions for each Class;
4. Revision of the classification of milk transferred from pool to nonpool plants;
5. An increase in the stated Class I differentials in the six months of seasonally lowest production and revision of the supply-demand adjustment;
6. Revision of the butterfat differentials to handlers and to producers;
7. Revision of the rates of location adjustment to handlers and producers;
8. Elimination of location adjustments in the price of excess milk under the base rating plan;
9. Provision for producer pooling, on a seniority basis;
10. Revision of base rules;
11. Allowance of additional time for handlers to make payments to producers; and
12. Revision of those provisions of the order relating to milk priced under other Federal orders.

Findings and conclusions. The following findings and conclusions on the material issues are based upon evidence in the record.

1. *Marketing area.* The Detroit marketing area should be expanded to include nine townships in the vicinity of the city of Ann Arbor. The townships are Webster, Northfield, Salem, Scio, Lodi, Pittsfield, Saline, York, and Augusta.

These townships are part of a 24-township territory which a group of handlers doing business in the Ann Arbor area proposed be added to the market. The distribution data available at the hearing consisted of the 1950 census population of the townships and estimates by the Ann Arbor handlers of the numbers of delivery routes serving each township. The 1950 population data are known to be considerably smaller than the present population of these rapidly growing communities. However, it is apparent from these data that the nine townships to be included in the marketing area include those with the largest populations and the ones in which the Ann Arbor handlers have the greatest per capita distribution of milk. There was no evidence of sales in these nine townships by any handlers whose primary markets are outside of the Detroit market. On the other hand, there is always the obvious possibility that handlers from such unregulated markets as Jackson or Lansing could develop sales in these townships.

The eight westernmost townships in Washtenaw County should not be included in the Detroit marketing area. They are less densely populated than the nine townships previously mentioned, are served by Jackson handlers to an extent which would bring some of these handlers under the Detroit order, and are less extensively served by the Ann Arbor dairies than the nine townships.

The four townships of Brighton, Milford, Green Oak, and Lyon also should not be included in the Detroit marketing area. Lansing handlers have routes extending into all four of these townships and do a greater proportion of business in Milford township than the Detroit handlers. Similarly, the three southernmost townships in the proposed additional area should not be included in the Detroit market. It appears that the Ann Arbor dairies serve only a small proportion of the total population in these townships, the remaining distribution being made by handlers not subject to the Detroit order.

One of the Detroit handlers proposed that twelve townships lying north and east of the city of Pontiac be added to the Detroit marketing area. He testified that these townships were served by a considerable number of Detroit dealers. There are also some local handlers serving these townships and two dairies from Flint have routes extending into those townships which are closest to that city. However, no data were presented to show the comparative volumes of distribution and there was no evidence of any competitive problems in the twelve townships of such nature as to threaten the orderly marketing of milk in the Detroit market. It is concluded that the present record shows no basis for the inclusion of these twelve townships.

2. *Status of pool plants.* There are two general types of milk handling plants associated with the market. One is the distributing plant, in which the raw milk is pasteurized and bottled for distribution to homes and stores. These are commonly, though not always, located within the marketing area, and are often referred to as city plants. The other type of plant is one at which milk is received from farmers, cooled, and readied for shipment in bulk to the distributing plants. These differences in function require separate standards for determining pool status.

(a) *Distributing plants.* Among the amendments of November 1, 1955, was one which would modify the standards under which a distributing, "city" plant would qualify as a pool plant. In order to qualify as a pool plant, route distribution inside the marketing area would have to amount to an average of 600 or more pounds per day, and in addition, half of the total receipts at such a plant would have to be disposed of on routes either inside or outside of the marketing area. In other words, a distributing pool plant would have to be primarily in the business of distributing fluid milk rather than in the business of making manufactured dairy products. In view of the

seasonality of receipts, "half" was defined as 55 percent during the months of August through January and 45 percent during the months of February through July. This provision was not scheduled to become effective until August 1, 1956, in order to allow any distributing plants which might have a lower percentage of route sales ample time to adjust their operations.

A handler proposed that the required proportion of fluid sales be substantially lowered. He based this request mainly upon a contention that the standards for distributing plants should be comparable with those for country supply plants. He pointed out that during the four months the call percentage provisions had been in effect, the country supply plants had been obligated to ship an average of 40 percent of their total receipts to city plants. Moreover, the call percentage is computed by including a 15 percent operating reserve over the city plant's Class I sales. He maintained that allowing a similar adjustment would bring the city plant's ratio of Class I sales to total receipts down to 34 percent for the four months.

One of the primary reasons for adopting a minimum percentage of route sales was to make the pool plant standards for city distributing plants comparable to the amended country pool plant standards. Without such a corresponding change in the city plant standards, a country plant might qualify as a distributing pool plant by making a small volume of sales in the marketing area instead of meeting the call percentage shipping requirements. Also, a city plant might accept several times as much milk from country plants as it needed for Class I purposes merely to qualify the country plants.

In determining whether or not the city plant standards are comparable to those which apply to country plants, it must be borne in mind that all country plants were, in fact, obligated to ship 48 percent of their total supplies to the city plants in January 1956. Also, they must so arrange their operations as to be prepared to ship as much as 75 percent in any month when such quantity might be needed. It is the maximum called for rather than a four- or six-month average which determines their method of operation. A second point is that a city plant operator knows within comparatively small limits what his Class I requirements will be and can make adjustments in his number of shippers and the quantity he may purchase from other plants. On the other hand, the demands on a country plant are much less predictable since in many cases they furnish supplemental supplies to city plants rather than a full supply. Finally, the 15-percent operating reserve used in computing city plant needs for country plant milk is not applicable in the manner suggested by the proponent. The country plants were required to ship the full 48 percent of their available receipts (total receipts less actual route sales) during January. Furthermore, if a larger operating reserve were allowed, the apparent requirements of the city plants would have been increased, the call percentage would have been correspondingly raised, and the country plants would have had to find customers for the larger quantities which would have needed to be shipped.

It is concluded that the requirement that a city distributing plant have half of its total sales on routes in order to qualify as a pool plant is quite conservative in comparison with the amended pool plant standards which apply to country supply plants.

(b) *Supply plants.* The standards under which a country supply plant could qualify as a pool plant were amended November 1, 1955. In place of the nominal standards which had previously been in effect, the amendment required that a supply plant ship at least 25 percent of its supply of producer milk to city plants during the four months of October through January and that it ship whatever larger percentage is specified in the market administrator's "call percentage". This call percentage is based upon the administrator's advance estimate of the quantities which city plants might need from country plant sources to meet their Class I sales, plus an operating reserve, the announced call being reduced by one-fourth from the estimates. A call percentage can be announced by the market administrator in any month except the flush months of April through July. This technique of establishing a comparatively low minimum shipping percentage and of relying principally upon the call percentages to determine whether a supply plant is sufficiently associated with the market to be considered a pool plant was adopted as being more responsive to changes in marketing conditions than a system of fixed shipping percentages. It also reflected a conclusion that each of the supply plants which are primarily identified with the Detroit market should ship an equal share of the market's requirements for milk for Class I purposes.

Two handlers proposed that the call percentage device be modified to require only that a country plant make a formal offer of the required quantity of milk to city plants instead of being required to make physical shipment of the specified percentage. One of these handlers favored retention of the 25 percent shipping requirement in the four months of October through January, but the other one testified that only the call percentage and offer technique should be used to determine pool plant status.

Under the proposed offer system, the operator of a country supply plant would submit a formal statement of offer to the market administrator, specifying the terms and conditions under which the milk would be available to city plants. These offers would be assembled by the market administrator and made available to each of the city plants.

There appear to be two major sources of difficulty in the application of the offer technique to conditions in the Detroit market. Any offer system which would be relied upon as an effective milk marketing device would present formidable problems of administration. Perhaps the most difficult of these is to specify the price at which the milk is to be offered. If no limit is set on the price specified in the offer, a supply plant could escape its obligation to ship milk by quoting an unrealistically high price. If a maximum price is set, it will apply to milk for which the handler has performed services beyond those involved in the delivery of milk to a milk plant by a producer. The additional services would include dumping, weighing, testing, washing of cans, cooling, redelivery into cans or tanks, and perhaps transportation to one or several city plants. It would be difficult to establish appropriate returns for the various combinations of these services which might be involved, and it would appear preferable to confine pricing to the delivery of milk by farmers to the handlers' plants unless this cannot be effectively accomplished without establishing charges for the subsequent handling functions. The proposed offer system would also require a set of rules to determine whether offers and acceptances were bona fide as to such factors as the quantities involved, length of advance notice of offer and acceptance, responsibility for transporting the milk, responsibility for quality, and the like.

The second major shortcoming of the offer proposal is that it would not leave country supply plants with any direct incentive to develop Class I outlets among the city plants. The present supply plants could maintain pool status by making only such shipments as were called for, and new plants could participate in the pool without developing any city plant customers for their milk.

The handlers who proposed meeting the call percentages by offers instead of by physical shipments testified that they had had considerable difficulty in finding city plant customers for the quantities of milk required by the call percentages. It appears, however, that such difficulties as had been experienced were principally attributable to the fact that these handlers had primary fluid milk operations in other markets rather than that there was any defect in the value of the call percentages as a measure of a supply plant's identification with the Detroit market. Another source of difficulty was that these handlers had to find entirely new or greatly expanded city plant outlets for their milk. Despite an understandable reluctance to change existing supply relationships, sufficient outlets were obtained, and additional time to develop outlets will be available during the months of April through July 1956 when no call percentages are applicable.

Some supply plant operators also proposed that the computation of the quantity of milk "available" for shipment to city distributing plants be modified. At present, availability is computed by subtracting local Class I sales from their total receipts of milk from producers. They proposed that the local Class I sales be increased by 15 percent as is done in computing city plant's requirements. However, the situations are not comparable. City plants must physically receive more milk than they will bottle because they cannot know bottling requirements in advance. The supply

plants, on the other hand have physical control of the milk at its source, and can ship all the milk not used for bottling.

It is concluded that the standards for defining the pool plant status of a supply plant should not be changed at this time.

3. *Class II price.* The cooperative association which represents the majority of producers in the Detroit market proposed substantial increases in the prices of milk used for other than Class I purposes. This cooperative, the Michigan Milk Producers Association, includes in its membership over 80 percent of the total number of producers on the Detroit market. It is responsible for marketing these producers' milk. It also operates receiving stations at which more than 25 percent of the total market supply is received, and it either operates manufacturing facilities or markets the daily and seasonal surpluses which have resulted from the operation of these receiving stations. The association proposed that a new Class III be established which would include most of the manufactured products such as butter, nonfat dry milk solids, hard cheese, and evaporated milk. They proposed that milk used to produce these manufactured products be priced at the higher of the local plant price or a butter-powder formula based on 93-score butter, spray-process powder, and an 84-cent "make" allowance. They further proposed that Class II be revised to include fluid cream and the manufactured products other than those in Class III, including mainly cottage cheese, ice cream, ice cream mix, and condensed whole or skim milk. They proposed that the Class II price be set at 40 cents over their proposed Class III price.

Since the inception of the order, fluid cream and all manufactured products have been combined into a single Class II. Also, since November 1, 1952, the Class II price has been an average of prices paid for manufactured milk at designated Michigan plants.

There is considerable evidence that this local plant pay price has not always reflected the full value of milk used for manufacturing purposes. The prices paid at the local plants averaged lower than those paid at the midwestern condenseries by 14 cents in 1953 and 1954 and by 5 cents in 1955, and the discounts at the local plants were greater than average during the flush months when the quantities of Class II milk were greatest. These Midwest condenseries are the ones commonly used in the Federal orders, including Detroit, as a measure of prices paid by manufacturers of evaporated milk.

The Detroit Class II price was even further below the prices paid for manufacturing grade milk by plants specializing in the manufacture of butter and creamery by-products in Michigan and Wisconsin, if the prices paid at these plants are converted to a 3.5 percent butterfat basis by the producer butterfat differentials established under the Detroit order. On this basis, Michigan creameries overpaid the Detroit Class II price by 20 cents in 1953 and 4 cents in 1954, and paid 3 cents less in 1955. Wisconsin creameries overpaid the Class II price by 22 cents in 1953, 17 cents in 1954, and 5 cents in 1955. In each of the three years, the creamery prices in each of these states were highest in relation to Detroit Class II prices during the flush months, when volumes of Class II milk are greatest.

During these years the Detroit Class II prices were also low in comparison with those in most other midwestern Federal order markets. The Chicago market is probably the most nearly comparable to Detroit. The volume of milk manufactured under that order is much larger, but the market is similar to the extent that operations are conducted mainly at country plants, and there are large volumes of manufacturing grade milk processed in each of the milksheds. Class III (a) under the Chicago order includes evaporated milk and bulk condensed. It is priced at the midwest condensery average price which was compared with the Detroit Class II price above. Class IV includes hard cheese and butter-powder operations. The Class IV price is a butter-powder price which averaged 25 cents over the Detroit Class II price in 1953, 14 cents over in 1954, and 1 cent under in 1955. During the flush months of April, May, and June of each of these three years the Chicago prices exceeded the Detroit prices by 34, 15, and 13 cents, respectively.

Cleveland is the next most closely comparable market with respect to size and regional location, though country plant manufacturing operations are not so well developed as in Detroit. During the years 1953, 1954, and through June 1955 manufacturing prices were set by a butter-powder formula except during April, May, and June of each year, when local plant prices were in effect. Throughout the two and one-half year period, butterfat for churning was subject to a 5-cent discount, equal to 17.5 cents per hundredweight of 3.5 percent milk. In 1953, the Cleveland price for milk used to make butter averaged only 3 cents above the Detroit Class II price and was substantially lower in the flush months. Cleveland prices on other manufactured products averaged 20 cents above the Detroit Class II price but only 3 cents higher in the flush months. Virtually the same comparative levels prevailed in 1954 and through June 1955. However, effective July 1, 1955, the Cleveland order was amended to provide that all manufacturing milk be priced at the higher of the midwest condensery price or the butter-powder formula price used to establish basic formula prices in both the Cleveland and Detroit orders. Official notice is taken that this price has continued into the flush season of 1956.

Other nearby markets include Toledo, Dayton-Springfield, and Fort Wayne. The quantities of surplus milk are so small as to limit the value of price comparisons. Toledo uses a local plant series which averages close to the Detroit series, Fort Wayne uses a butter-powder formula which averaged substantially above the Detroit prices during 1953 through 1955, and Dayton-Springfield uses a butter-powder formula with seasonal variation and a discount on butterfat used to produce butter. Some comparisons were also made with the New York Class II price which averages substantially lower than those cited above. However, marketing conditions in that market were not described in sufficient detail to establish the extent of any comparability which may exist.

The comparatively low Class II prices which have prevailed during the past three years in the Detroit market are reflected in operating results in two ways. One is that all of the plants which have qualified as pool plants subsequent to the inception of the order have been plants which either contained manufacturing facilities, were located adjacent to plants with such facilities, or served as collecting stations for manufacturing plants.

Changes in the number of producers at various types of plants were also presented at the hearing. In the order, distributing plants are separately defined for the purpose of meeting pool plant qualifications. Similarly, the country supply plants constitute a separately defined group of pool plants. Furthermore, for the purpose of computing the call percentage, the supply plants are further segregated into two groups. One of these is composed of the receiving stations which regularly send their entire available supply to distributing plants during all except the flush months. The remaining country plants are those which have manufacturing facilities available to care for the weekend and seasonal surpluses. Using these standards, the market administrator compiled a tabulation showing the number of producers shipping milk to each category of plants. In November 1951 there were 12,132 shippers in the market, 24 percent of whom delivered their milk directly to the distributing plants, 65 percent to receiving stations, and 11 percent to manufacturing plants. In December 1955, out of 12,679 shippers, 25 percent shipped to distributing plants, only 53 percent to the receiving stations, and 22 percent to manufacturing plants. If the Michigan Milk Producers' plant at Elsie were reclassified from a receiving station to a manufacturing plant, the gain in the proportion of shippers at the manufacturing plants and the reduction at receiving stations would be even more marked.

Producers would be as much attracted to receiving stations as to manufacturing plants, since they would receive the marketwide blend price in either event. However, operators of plants manufacturing dairy products from most of the milk received from producers must depend primarily upon the margin between the Class II price and the prices of the dairy products. The pronounced increase in the proportion of Detroit producers at plants having manufacturing facilities available could hardly have occurred unless these margins were attractive.

A second operating result which indicates the effect of the low Class II prices is the profitability of the handling of the Class II milk. The manager of one cooperative association which handles a large volume of Class II milk in plants which also process large volumes of manufacturing grade milk testified that the patronage dividend was

15 cents on 1955 operations, upwards of 30 cents on 1954 operations, and that his operating margin set a record in 1953. These results are in line with the price comparisons previously cited. These showed that the Detroit Class II price averaged lowest in comparison with other values in 1953, and improved in 1954 and 1955. A proprietary handler indicated that his cost-acounting records disclosed an unsatisfactory operation for 1955 and a satisfactory result for 1954. The Michigan Milk Producers' Association indicated that its operating results in recent years were such that it could absorb the proposed increases without incurring losses.

The unduly low Class II prices which have prevailed under the order should be rectified by adopting a butter-powder price formula as an alternative to the local plant prices, and by adding 20 cents to the higher of these two prices during the shortest supply months of October through January.

The surplus utilization should not be subdivided into two classes as was proposed by the producers. It is apparent from the testimony that Detroit is essentially an open market for fluid cream, cottage cheese, and ice cream ingredients and that there is considerable distribution of all these products throughout the market by non-handler firms. Also, many of the handlers purchase these products from non-handler sources or make them from other source ingredients. It is also evident that most of the handlers who now choose to utilize producer milk in the production of all or a portion of these products whenever it is available could rearrange their operations so as to avoid utilizing producer milk. This would leave only a few handlers who would be obligated to pay the proposed higher Class II price for milk utilized in these products. In these circumstances, it appears that a separate Class II for these products at a premium price would be highly inequitable as between handlers, and would not achieve any substantially higher returns for producers.

The butter-powder alternative price should be approximately equal to the one proposed by producers, but, for the sake of conformity, should use the same price quotations as the basic butter-powder formula already included in the Detroit order. Instead of the proposed use of 93-score butter, spray-process nonfat dry milk solids, and a "make" allowance of 84 cents, it should use the basic formula factors of 92-score butter, an average of the prices for spray and roller process solids, and a "make" allowance of 76 cents. This result can be most directly stated as a deduction of 18.3 cents from the basic butter-powder formula price.

For the calendar year 1954 this formula, 18.3 cents below the basic butter-powder price, would have averaged 1.1 cents below the one proposed by producers and in 1955 exactly the same.

The 76 cents appears to be a fully adequate "make" allowance in the butter-powder formula. The formula prices would have been 11 cents below prices paid at Michigan creameries and 13 cents below those of Wisconsin creameries in 1953, 1 cent above the Michigan and 12 cents below Wisconsin in 1954, and 9 cents below Michigan and 17 cents below Wisconsin in 1955. They are also somewhat lower than the butter-powder formula prices used in other midwestern Federal order markets. For example, they would have been below the Chicago Class IV formula by 16 cents in 1953, 9 cents in 1954, and 11 cents in 1955. They are 18.3 cents below the currently effective Cleveland butter-powder formula. Although this formula is somewhat lower than those used in some other Federal orders, it is applied here as one of two alternative prices, and is subject to the 20-cent seasonal premium previously mentioned.

As explained earlier, marketing conditions in the Detroit area are such that the separation of fluid cream, cottage cheese, and ice cream uses into a separate class at a 40-cent premium does not seem likely to attain the objectives sought by proponents in an equitable fashion. However, a 20-cent premium in the four months of normally lowest supply, October through January, would tend to achieve the same purposes, and be equitable as among handlers.

October through January are the same months in which the country supply plants are obligated to ship the fixed minimum of 25 percent of their available supplies to the city plants. Commonly, they ship much larger percentages during these months, and the quantities of reserve milk which must be manufactured are at a minimum. Also, in these months a larger proportion of the Class II milk can be used for fluid cream, cottage cheese, and ice cream ingredients rather than being manufactured into such end-use products as butter and nonfat dry milk solids, hard cheese, or evaporated milk.

The 20-cent premium will apply to all handlers of Class II milk, regardless of the type of products in which they use the milk. It will, therefore, minimize the shifting of operations and the uneven effects which would have been invited by the proposed 40-cent premium on selected items. At the same time, the 20-cent premium will tend to encourage handlers to add to their operations only such supplies of milk as are required for operating reserve purposes rather than adding quantities for purely manufacturing purposes.

4. *Transfers to nonpool plants.* One of the same handlers who proposed revising the call percentage requirements as described above also proposed amending the classification of milk transferred to nonpool plants. The original order provided that milk so transferred would be classified at the lowest utilization in the nonpool plant. Effective November 1, 1955, this provision was amended to allocate the transferred milk to the highest available use in the nonpool plant. The handler proposed that transferred milk be allocated to the highest use remaining after assignment of any receipts of milk from those dairy farmers who regularly supply fluid approved milk at the nonpool plant.

Data presented at the hearing demonstrate that the problem which the November 1 amendment was designed to correct continued right up to the time of such amendment and remains as a potential problem. Total transfers to non-handler plants in 1955 were substantially lower than in 1954, but as would be expected, the two months of greatest movement to such plants were May and June when production was at its seasonal peak. However, total transfers to nonpool plants having Class I utilization were smaller in these months than in any of the subsequent months of July through October, and the bulk of such transfers were classified as Class II. In November and December all of the milk transferred to nonpool plants having Class I utilization was classified as Class I, indicating that bottling operations at such plants were sufficient to account for all of the milk transferred without any of it being assigned to Class II. Also, as in 1954, the great majority (nearly 75 percent) of the 1955 transfers to non-handler plants went to plants which had no Class I utilization.

The proposal to give local dairy farmer milk the priority over Detroit-transferred milk at the nonpool plant would leave the nonpool plant operator with an incentive to buy short locally in order to maximize his local blend price. He could do this by drawing on the Detroit pool for his daily and seasonal reserves. He would also be encouraged to draw on Detroit for his Class II needs, since he would have to pay only a Class II price for the Detroit milk instead of the blend price he would have to meet in an unregulated market. Moreover, the proposed amendment would be exceptionally difficult to administer in the Detroit market. It would require a virtually complete audit of utilization and receipts at the nonpool plants. Detroit is the third largest Federal order market in the United States and the transfers to nonpool plants having Class I utilization are particularly numerous. They include plants purchasing supplemental milk to care for the resort period demand and plants in smaller markets throughout the State and in the neighboring portions of Ohio and Indiana which may require supplemental milk from time to time.

Another handler proposed that transfers of Detroit milk to nonpool plants be assigned to Class I to the extent that approved local farmer milk failed to meet the nonpool plant's Class I needs, plus a reasonable reserve. This reasonable reserve would be measured by multiplying the nonpool plants operators' Class I utilization by the percentages set forth in the supply-demand adjustment in the Detroit order. However, it must be recognized that this modification would not alleviate the administrative problems previously mentioned and would not affect those nonpool plant operators who found it expedient to carry Class II milk in the Detroit marketwide pool rather than in their own markets.

It is concluded that no change should be made at this time in the classification of milk transferred to nonpool plants.

5. *Class I price.* No change should be made in the annual average level of the Class I price differential. However, a seasonal change of 40 cents per hun-

dredweight should be introduced in the stated Class I differential. The new differentials would be $1.63 for the months of August through January and $1.23 for the months of February through July instead of the present differential of $1.43 in all months.

Producers proposed two major changes in the method for determining the Class I differential. Each of these would make a substantial increase in the differential. One proposal was that the stated Class I differential be increased during August through January to $1.85 per hundredweight. This would be an increase of 42 cents for the six months and the annual average increase would approximate 21 cents. Their second major proposal was to raise the schedule of standard utilization percentages to 127.5 percent for November, with proportionate increases for the other months. Since the supply-demand adjustment averages 3 cents per point, this part of that proposal would amount to 22.5 cents. The combined effect of these two proposals would increase Class I differential by an annual average of 43.5 cents.

It does not appear that any general increase in the Class I differential is required at this time in order to reflect economic conditions which affect market supply and demand, and insure a sufficient quantity of pure and wholesome milk for the market. At the hearing there was considerable range of views as to the quantity of milk which represented an adequate supply. Part of the divergence in views may be partly accounted for by the function performed by various parties in the market; producers', supply plant operators, or processors and distributors of Class I milk all have different opinions on the subject. However, even the same party is likely to have a different view of adequacy of supply depending upon whether he is considering the handling of excess milk, the level of the supply-demand standard for determining Class I prices, or defining the standards to be met by pool plants. One recent complication to determining the proper level of supply is the fact that most of the handlers in the market have adopted six-day operation of their plants within the past year. This severely limits the value of previous experience in the market.

It appears, however, that the most practical test of adequacy of supply is to determine the point at which handlers find it necessary to supplement their supplies of producer milk by purchases of bulk supplemental milk from other sources. This did not occur to any significant extent in the fall of 1955 despite the fact that producer receipts were equal to only 123.9 percent of gross Class I sales for the month of November. The Michigan Milk Producers Association presented evidence that the six-day operation of bottling plants resulted in greatly reduced calls upon the supply plants on Sunday and very large demands on Monday through Friday. It is apparent that the distributing handlers were not yet fully equipped to hold and rotate the weekend receipts of milk; at the time of the hearing, the Association was performing this additional service without making any extra charge.

In view of the fact that the market was able to operate last November on a supply equal to 123.9 percent of sales and with the likelihood that additional holding facilities will be installed, it is concluded that receipts equal to 120 percent of gross Class I sales should continue to represent a normal supply in the short month. Producers should not be asked to carry any larger quantities of reserve milk than are needed for efficient operation nor should consumers be required to pay any higher Class I prices than are needed to encourage farmers to produce the minimum necessary reserve for Class I operations.

Producers contended that milk production could not long be maintained at the order prices which have prevailed in recent years. They cited data to the effect that farm wage rates and other production costs were particularly high in the Detroit region. However, it must be recognized that large quantities of manufacturing grade milk are still produced in Michigan at the same general level of prices as prevails elsewhere in the United States for milk of similar grade. In fact, several of the Detroit receiving stations are operated in close proximity to or in conjunction with such plants. Moreover, the Class I differentials under the Detroit order have been fully adequate to increase supplies sufficiently to care for the growth in Class I sales. The supply-demand adjustment can provide considerable additional increase in price if supplies begin to fall behind. Finally, Detroit order prices are fully as high as those in the most directly competitive Federal order markets. In 1955, for example, the Detroit Class I price for milk delivered to city plants averaged $4.40 as compared with a Toledo price of $4.30. There is direct competition between distributors at these prices and there is also some competition with Detroit handlers having a sixteen-cent location differential. Competition between the Detroit and Cleveland markets is in the procurement of milk from farms rather than in sales of the bottled product. The Cleveland blend price at Coldwater, Michigan, averaged $3.71 during 1955 as compared with a Detroit blend at nearby location (Hillsdale and Litchfield, Michigan) of $3.86.

A moderate seasonal change in the Class I differential should be adopted. The Detroit market has previously relied exclusively on the base-rating plan as a means of encouraging level production. Under this plan farmers have maximized their production during the fall in order to establish as high a base as possible for the following year. By having a lower Class I differential in the spring than in the fall months, the difference between the base and excess prices will be narrowed, and the effect of the base plan will be somewhat lessened. However, the seasonal differential will provide additional money to farmers during the fall months when costs are highest. The net effect on farmer's seasonal plans may not be greatly affected, although it is difficult to predict the amount of price change which may be necessary to offset the change in the base plan incentive.

A basic reason for adopting a seasonal change in the Class I differentials is to have the Detroit Class I price conform more closely to out-of-area prices. Sales competition with the Toledo market and other Federal order areas where the Class I prices vary seasonally are described in more detail in connection with issue number 12. In markets not under Federal orders, it is common for prices to be lower in the flush production season and higher in the season of lowest production.

The supply-demand adjustment should not be changed. The principal proposals for its modification were directed to raising the standard utilization percentage for November, the month of usually lowest production. The reasons for retaining the present standard of 120 percent were cited above. Other proposed modifications would have provided a 3-cent price change for each percentage indication of oversupply or undersupply in the market instead of a 15-cent change for each 5 percentage points and a revision of the seasonal variation in the standard utilization percentages. The adjustment has always been made in 15-cent intervals in this market, and producers are strongly in favor of retaining this feature. The present seasonal standards have been in effect only since November 1955 and appear to be as well adapted to recent and prospective market experience as any which could now be devised.

6. *Butterfat differentials.* Since November 1, 1952, the butterfat differentials charged to handlers for milk used in each of the two classes and the differential used in paying producers have been the same. They have moved by half-cent amounts, set at one-half cent over the top limit of half-cent ranges in the price of 92-score butter at Chicago. In 1955, for example, the butter price averaged 57.45 cents per pound. Throughout the year the butter price was in the 55-to-59.99-cent range and resulted in a differential of 6.5 cents per one-tenth of one percent variation from 3.5 in butterfat content.

Producers proposed that the butterfat differentials be increased to 0.12 times the price of 93-score butter at Chicago. At 1955 prices the present order provided a differential equal to 0.113 times the price of 92-score butter. They further proposed that the handler differentials change in amounts of one-tenth of a cent, but that producer differentials continue to change only by half-cent amounts. No difference in rate as between various classes of milk was proposed.

The principal evidence in support of the higher rates of differential was a statement that cream was currently selling at the rate of 83 cents per pound of butterfat content, if no allowance is made for the value of the nonfat portion. However, no historical data were presented to show the range of cream values on the market over a period of time. In the absence of further data, it is concluded that no change should be made in the rate of the butterfat differentials.

However, the differentials should move in amounts of one-tenth cent. This is the common interval used in other Fed-

eral orders and will keep butterfat values more closely related to the butter market. Under the current system a differential of 6.5 cents results from butter prices ranging from 55 to 59.99 cents, or from 0.118 to 0.108 times the butter value. The rate to be used should be the midpoint of the range, or 0.113 times the price of 92-score butter at Chicago.

7. *Location adjustments.* A cooperative association which operates three supply plants proposed a drastic reduction in the rate of the location adjustments which are allowed to handlers for the transportation of milk used for Class I purposes and which are deducted from the prices payable to producers who deliver milk to plants outside the city zone. The proposed rates were 8 cents per hundredweight in the 34–50 mile zone, 9 cents at 50 to 60 miles, plus 1 cent for each additional 20 miles. These compare with present rates of 13 and 14 cents in the first two zones and 1 cent for each additional 10 miles. These rates in turn, represent a reduction from those specified in the original order of 14 cents in the first zone and 1 cent per 8 miles thereafter.

A rather wide variation in cost experience was shown to exist, even among those handlers who haul large volumes of milk. The proponent had some very low costs on hauls which appeared more favorable than average as to length of haul, regularity of shipment, and freedom from heavy traffic. Those large-scale proprietary handlers who haul large quantities of milk cited cost data showing that the present location adjustments were no more than adequate to cover hauls to city plants. The Michigan Milk Producers Association, which hauls a far larger volume than any other organization in the market testified that its experience showed about a 2½-cent lower cost than the rates presently provided by the order. Cost data were also presented by the Association on shipments from 3 of its supply plants at which movements were sufficiently steady to have a tanker regularly assigned. Under such comparatively favorable circumstances costs ranged from 3.4 to 8.1 cents below the location adjustment rates.

It is concluded that a general reduction should be made to reflect the experience of the most efficient full-scale hauler, but not to levels attainable only under the most favorable circumstances. It appears that savings are greater on the longer hauls. Accordingly, the rate in the first zone should be reduced only to 12 cents and the rate for additional mileage should be halved, to 1 cent per 20 miles or fraction thereof.

8. *Excess milk price.* It was proposed that the price paid to producers for excess milk be equal to the manufacturing class price, regardless of location. Since the inception of the order, the excess price at city zone plants have been 17 cents over the Class II price, subject to the producer location adjustment at country plants.

It was contended that excess milk is utilized for manufacturing purposes and should be valued as such. However, it must also be recognized that the quantity of excess milk is not, except by extreme chance, exactly equal to the quantity of Class II milk. Also, the more distant producers are pooled throughout the year, even though their milk may physically be used for Class I purposes only during the fall months. In the absence of a base rating plan, the producer location adjustment is usually deducted from the uniform price on all milk delivered by the producers to pool plants, in recognition of the fact that transportation costs are involved whenever the milk is utilized at city plants.

In large measure, this is a problem of dividing the pooled proceeds among producers. The cooperative association representing the great majority of the producers supplying the market favored the present order provisions for computing the excess price for the reasons developed in the preceding paragraph. It is concluded that location adjustments should continue to be applied to the excess milk price.

9. *Seniority of producers.* A handler proposed that only such number of producers be qualified to participate in the marketwide pool as were needed to meet the Class I requirements of the market. At the outset of such program and during any subsequent period when supplies exceeded Class I requirements, producers would have pool status in reverse order of their seniority of association with the market.

The fundamental defect in this proposal is that it removes from the Class I price its essential role of balancing supply and demand. The act clearly provides that, in the case of milk, the prices shall be established in relation to economic factors affecting supply and demand. Accordingly, the proposal should not be adopted.

10. *Base rules.* The order presently provides that a producer who suffers the complete loss of his barn as a result of fire or windstorm may retain his base for a six-month period. This is designed to give the producer opportunity to rebuild his barn and re-establish the herd.

It was testified that the six-month period has not always proved long enough to accomplish the rebuilding of the barn and re-establish the full-scale production. Since the other effects of such a catastrophe are so severe, the producer should not also lose his base. It is concluded that the rebuilding period should be extended to a full year.

11. *Date of payments to producers.* A handler proposed that the order be amended to allow payments to producers to be made as late as the twentieth day of the month following the delivery of the milk. The order now specifies that such payments be made not later than the fifteenth, unless holiday interruptions occur.

Milk producers are not paid until after the month's deliveries have been completed. It is, therefore, highly desirable to make the payment at the earliest practicable date. The schedule provided by the order for reports to the market administrator, his computation of the pool, and settlement through the equalization fund have been established so as to distribute as fairly as possible among all parties the burden of making payment by the fifteenth. In the absence of any more widespread indication of difficulty in meeting the schedule it is concluded that the payment date should not be changed.

12. *Milk priced under other Federal orders.* Toledo is the closest market regulated under another Federal order, although competitive problems also exist or may arise with several other order markets. In the case of Toledo there is direct distribution by Detroit handlers in that market, and vice versa, as well as extensive competition between the two groups of handlers in the unregulated sales territory outside of the two defined areas. The problem is intensified by the difference in seasonal price plans in these two markets; Toledo prices are usually below Detroit prices in the spring and above them in the fall.

There were two major proposals for handling sales between order markets. One would assess a handler the higher of the two order prices on any sales made in another marketing area. Under this proposal, for example, a Detroit handler selling milk within the Toledo marketing area would pay the Detroit Class I price whenever it exceeded the Toledo price and would pay the Toledo Class I price in those months when it exceeded the Detroit price. All payments would be made to the order under which the handler was regulated.

This is not an equitable technique. Since, in the example cited, a Detroit handler would always be paying the higher of two order prices, he would be at a disadvantage in his sales in the Toledo area as compared with Toledo handlers paying only the Toledo Class I price. Even if a similar provision existed in both orders, interorder distributors would be at a competitive disadvantage.

The second proposal was that sales in another Federal order area take the Class I price for that area at all times. The fundamental objection to this proposal is that the price provisions of each order are designed to achieve an adequate supply of milk under conditions prevailing in that area. In the Detroit-Toledo example the Detroit plan for level production is a base-rating program whereas in Toledo it is seasonal pricing. For a Detroit handler to return to the Detroit pool the Toledo Class I prices on milk sold in that area would, to that extent, distort returns to the Detroit producers. While the quantities of Detroit milk sold in Toledo might not significantly affect so large an operation as the Detroit pool, the reverse situation might be quite significant, especially since the Toledo market uses individual-handler pooling.

It should be noted that neither proposal would affect intermarket competition in the unregulated sales areas between defined order markets. Also, the annual average Class I prices in the Detroit and Toledo areas remained competitive through 1955. The Toledo price averaged $4.31 for the year, as compared with a Detroit city zone price of $4.40 and a price of $4.25 at the Toledo zone.

The introduction of seasonal variation in the Detroit Class I differentials, previously described, will contribute to more complete solution of the intermarket

competition than the special pricing proposals. The manager of the Northwestern Cooperative Sales Association, which represents the great majority of the producers supplying the Toledo market, testified that his association has seriously considered requesting a similar degree of price seasonality in that market. To the extent seasonal alignment, as well as annual average alignment, is achieved, handlers would be fully competitive in the sales territory between marketing areas as well as within the defined order markets.

It is concluded that no special price provisions should be adopted, either with respect to milk from other Federal markets sold within the Detroit order or to Detroit milk sold within other Federal market areas. The proposed special price provisions are unsatisfactory for the reasons stated, and the seasonal variation in the Class I price differential will provide a broader solution to the principal competitive problems, those between the Detroit and Toledo markets, than special pricing within the defined areas.

Review of the specific language of that portion of § 924.101 which relates to milk from other Federal markets reveals a possible question of interpretations. The language refers primarily to handlers engaged in distribution on routes within the Detroit area. If such handlers are already subject to another order and have greater distribution in such area, they are exempt from the pricing and payment provisions of the Detroit order.

Obviously, there is another category of receipts from other Federal order markets. This consists of supplemental milk which may be purchased by a Detroit handler, either in bulk or bottled form, from a handler regulated under another Federal order. If the originating plant is fully regulated under such other order and the milk is, therefore, subject to pricing, it should be as freely transferable between markets as are route sales from distributing plants.

This can be accomplished by providing a separate step in the allocation provisions for milk from sources regulated under another order and by specifically exempting any of such milk as may be classified as Class I under the Detroit order from compensatory payments.

General findings. (a) The proposed marketing agreement and the order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the prices of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of producers and handlers. The briefs contained proposed findings of fact, conclusions and argument with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein the request to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this decision.

Recommended marketing agreement and order, as amended. The following amendments to the order, as amended, are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The proposed marketing agreement is not included because the regulatory provisions thereof would be the same as those contained in the order, as amended, and as proposed to be further amended:

1. Revise § 924.5 to read as follows:

§ 924.5 *Detroit, Michigan, marketing area.* "Detroit, Michigan, marketing area," hereinafter referred to as the "marketing area," means all territory, including incorporated municipalities, within the outer boundaries of the townships of Burtchville, Grant, Greenwood, Kenockee, Wales, Clyde, Fort Gratiot, Kimball, Port Huron, St. Clair, China, East China, Ira, Cottrellville and Clay in St. Clair County, the townships of Chesterfield, Sterling, Clinton, Harrison, Warren, Erin, and Lake in Macomb County, the townships of White Lake, Waterford, Pontiac, Avon, Commerce, West Bloomfield, Bloomfield, Troy, Novi, Farmington, Southfield, and Royal Oak in Oakland County, the townships of Salem, Northfield, Webster, Scio, Ann Arbor, Superior, Ypsilanti, Pittsfield, Lodi, Saline, York, and Augusta in Washtenaw County, the townships of Ash and Berlin in Monroe County and all of Wayne County, all in the State of Michigan.

2. In § 924.16 (b) delete from the proviso the phrase, "during each of the months of November 1955 through January 1956 and, in subsequent years,".

3. Delete § 924.46 (b) and substitute therefor the following:

(b) Subtract from the pounds of butterfat remaining in each class, in series beginning with the lowest priced utilization, the pounds of butterfat in other source milk other than that to be subtracted pursuant to paragraph (c) of this section;

(c) Subtract from the pounds of butterfat remaining in each class, in series beginning with the lowest priced utilization, the pounds of butterfat in other source milk received from a plant at which the handling of milk is fully subject to the pricing and payment provisions of another marketing agreement or order issued pursuant to the act;

4. In § 924.46 change the designation of paragraphs (c), (d), and (e), to (d), (e), and (f), respectively.

5. Revise § 924.51 (a) to read as follows:

§ 924.51 *Class I milk prices.* (a) Except as provided in paragraph (b) of this section, the minimum price per hundredweight to be paid by each handler, f. o. b. his plant, for milk of 3.5 percent butterfat content received from producers or from cooperative associations, during the month, which is classified as Class I utilization shall be the basic formula price plus $1.23 during the months of February through July and plus $1.63 in all other months.

6. Revise § 924.52 to read as follows:

§ 924.52 *Class II milk price.* The minimum price per hundredweight to be paid by each handler, f. o. b. his plant, for milk of 3.5 percent butterfat content received from producers or from a cooperative association during the month which is classified as Class II utilization shall be as follows:

(a) In the months of February through September the higher of: (1) The price per hundredweight as described in § 924.50 (c), or (2) the price per hundredweight described in § 924.50 (b), less 18.3 cents.

(b) In the months of October, November, December, and January add 20 cents per hundredweight to the price determined in paragraph (a) of this section.

7. In § 924.60 (b) change the phrase, "other source milk is allocated to Class I pursuant to §§ 924.46 and 924.47" to read, "other source milk is allocated to Class I pursuant to § 924.46 (b) and the corresponding step of § 924.47."

8. In § 924.60 (c), change the tabulation of road distances and rates per hundredweight to read as follows:

Shortest road distance from Detroit City Hall:	*Rate per hundredweight*
More than 34 miles but not more than 50 miles	$0.12
More than 50 miles but not more than 70 miles	.13
Add 1 cent for each 20 miles or fraction thereof over 70 miles.	

9. At the end of § 924.71 (c) change the phrase "may retain his base without loss for six months." to read "may retain his base without loss for twelve months."

10. Change § 924.82 to read as follows:

§ 924.82 *Producer butterfat differential.* In making payments pursuant to § 924.80, the base price and excess price or the uniform price shall be increased or decreased for each one-tenth of one percent of butterfat content in the milk received from each producer or a cooperative association above or below 3.5 percent, as the case may be, by an amount equal to the average daily wholesale price per pound of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the U. S. D. A. during the month multiplied by 0.113.

Filed at Washington, D. C., this 5th day of June 1956.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 56-4519; Filed, June 7, 1956; 8:52 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OREGON

RESTORATION ORDER UNDER FEDERAL POWER ACT

MAY 24, 1956.

1. Pursuant to Determination No. DA-423 Oregon, of the Federal Power Commission and in accordance with Order No. 541, section 2.5, of the Director, Bureau of Land Management, approved April 21, 1954 (19 F. R. 2473), as amended, it is ordered as follows:

The land hereinafter described, so far as it is withdrawn and reserved in Power Site Reserve No. 537, approved August 2, 1916, is hereby restored to disposition under the public land laws subject to the provisions of section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U. S. C. 818), as amended, and subject to the condition that in the event the said tract is required for power purposes, any improvements or structures placed thereon which shall be found to interfere with such development shall be removed or relocated as may be necessary to eliminate interference with power development at no cost to the United States, its permittees or licensees.

WILLAMETTE MERIDIAN, OREGON

T. 2 S., R. 7 E.,
Sec. 33: NW¼SW¼.
40 acres.

The lands released from withdrawal by this order shall not become subject to the initiation of any rights or to any disposition under the public-land laws until it is so provided by an order of classification to be issued by an authorized officer opening the lands to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended, with a ninety-one day preference right period for filing such applications by veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944 (58 Stat. 497; 43 U. S. C. 279–284) as amended.

RUSSELL E. GETTY,
Acting State Supervisor.

[F. R. Doc. 56–4487; Filed, June 7, 1956; 8:45 a. m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

LEONARD G. LEA

REPORT OF APPOINTMENT AND STATEMENT OF FINANCIAL INTERESTS

Report of appointment and statement of financial interests required by section 710 (b) (6) of the Defense Production Act of 1950, as amended.

Report of Appointment

1. Name of appointee: Leonard G. Lea.
2. Employing agency: Department of Commerce, Business and Defense Services Administration.
3. Date of appointment: April 20, 1956.
4. Title of position: Consultant.
5. Name of private employer: Kleckhefer Container Company.

[SEAL] CARLTON HAYWARD,
Director of Personnel.

Statement of Financial Interests

6. Names of any corporations of which the appointee is an officer or director or within 60 days preceding appointment has been an officer or director, or in which the appointee owns or within 60 days preceding appointment has owned any stocks, bonds, or other financial interests; any partnerships in which the appointee is, or within 60 days preceding appointment was, a partner; and any other businesses in which the appointee owns, or within 60 days preceding appointment has owned, any similar interest.

Kleckhefer Container Company.
Elgin Paper Company.
Standard Oil Company.
Great Northern Railway.
Eddy Paper Corporation.
Dresser Industries.
Douglas Aircraft.
The Lea Company.
Bank deposit.

Dated: May 11, 1956.

LEONARD G. LEA.

[F. R. Doc. 56–4514; Filed, June 7, 1956; 8:51 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11287, 11288; FCC 56M-546]

EL MUNDO, INC., AND PONCE DE LEON BROADCASTING CO., INC.

ORDER SCHEDULING HEARING

In re applications of El Mundo, Inc., Mayaguez, Puerto Rico, Docket No. 11287, File No. BPCT–1892; Ponce De Leon Broadcasting Co. Inc., of P. R. Mayaguez, Puerto Rico, Docket No. 11288, File No. BPCT–1906; for construction permits for new television broadcast stations.

The Hearing Examiner having under consideration the record of the pre-hearing conference in the above-entitled proceeding, held on May 28, 1956, in the offices of this Commission, Washington, D. C., which was attended by counsel for all of the parties to the said proceeding; and

It appearing that at the said pre-hearing conference the first formal pre-hearing conference in the said proceeding, pursuant to §§ 1.813 and 1.841 (c) of the Commission's rules, as amended, was scheduled by the Hearing Examiner, with the consent and agreement of all parties, to be held at 2:00 o'clock p. m., on Tuesday, June 5, 1956, in the offices of this Commission, Washington, D. C., at which will be considered the matters set forth in the Notice of Pre-hearing Conference issued by the Hearing Examiner on March 2, 1955; and

It further appearing that, at the same pre-hearing conference, the Hearing Examiner scheduled, with the consent and agreement of all of the parties, the date of July 9, 1956, at 10:00 o'clock a. m., in the offices of this Commission, Washington, D. C., for the commencement of the hearing in the said proceeding; and

It further appearing that the Hearing Examiner ruled, with the consent and agreement of all of the parties, that no dates would be set, until after the pre-hearing conference to be held on June 5, 1956, for the exchange of exhibits and for the final pre-hearing conference, as required by § 1.841 of the Commission's rules, as amended;

It is ordered, This 1st day of June 1956, that the dates fixed by the above rulings of the Hearing Examiner for the initial pre-hearing conference, pursuant to §§ 1.813 and 1.841 (c), supra, and for the commencement of the hearing in the above-entitled proceeding, be, and they are hereby, affirmed.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56–4511; Filed, June 7, 1956; 8:50 a. m.]

[Docket No. 11695]

SOUTHWESTERN BELL TELEPHONE CO.

ORDER ASSIGNING MATTER FOR PUBLIC HEARING

In the matter of the application of Southwestern Bell Telephone Company, for a certificate under section 221 (a) of the Communications Act of 1934, as amended, to acquire certain telephone properties, plant and facilities, of The Southwestern States Telephone Company, located in the States of Oklahoma and Texas; Docket No. 11695, (File No. P–C–3760).

The Commission having under consideration an application filed by Southwestern Bell Telephone Company for a certificate under section 221 (a) of the Communications Act of 1934, as amended, that the proposed acquisition by Southwestern Bell Telephone Company of certain telephone plant and properties of The Southwestern States Telephone Company furnishing telephone service at the following exchanges:

Town or city	County	State
Allen	Pontotoc	Oklahoma.
Binger	Caddo	Do.
Calvin	Hughes	Do.
Cement	Caddo	Do.
Collinsville	Tulsa	Do.
Erick	Beckham	Do.
Fort Cobb	Caddo	Do.
Harrah	Oklahoma	Do.
Jenks	Tulsa	Do.
Lone Wolf	Kiowa	Do.
Moore	Cleveland	Do.
Mountain Park	Kiowa	Do.
Rocky	Washita	Do.
Skiatook	Tulsa	Do.
Texola	Beckham	Do.
Wetumka	Hughes	Do.
Chillicothe	Hardeman	Texas.
McLean	Gray	Do.

and certain toll lines, plant and equipment connected to such exchanges will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is ordered, This 1st day of June 1956, that pursuant to the provisions of section 221 (a) of the Communications Act of 1934, as amended, the above application is assigned for public hearing for the purpose of determining whether the proposed acquisition will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is further ordered, That the hearing upon said application be held at the offices of the Commission in Washington, D. C. beginning at 10:00 a. m., on the 29th day of June 1956, and that a copy of this order shall be served upon the Governors of the States of Oklahoma and Texas, The Corporation Commission of the State of Oklahoma, Southwestern Bell Telephone Company, The Southwestern States Telephone Company and the Postmasters of Allen, Binger, Calvin, Cement, Collinsville, Erick, Fort Cobb, Harrah, Jenks, Lone Wolf, Moore, Mountain Park, Rocky, Skiatook, Texola and Wetumka, all of which are in the State of Oklahoma and Chillicothe and McLean, both of which are in the State of Texas;

It is further ordered, That within fifteen days after the receipt from the Commission of a copy of this order, the applicant herein shall cause a copy hereof to be published in a newspaper or newspapers having general circulation in the above-mentioned towns, cities and counties in which the properties are located and shall furnish proof of such publication at the hearing herein.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-4512; Filed, June 7, 1956; 8:50 a. m.]

[Docket No. 11268, etc.; FCC 56M-549]

WISCONSIN TELEPHONE CO. ET AL.

ORDER SCHEDULING HEARING

In re applications of Wisconsin Telephone Company, Docket No. 11268, File No. 5300-F1-P-H; Ohio Bell Telephone Company, Docket No. 11269, File No. 5301-F1-P-H; Ohio Bell Telephone Company, Docket No. 11270, File No. 5745-F1-P-H; for construction permits for new VHF Public Class III-B coast stations at Milwaukee, Wisconsin, Cleveland, Ohio, and Toledo, Ohio, respectively; and Michigan Bell Telephone Company, Docket No. 11375, File No. 5832-F1-P-H; Michigan Bell Telephone Company, Docket No. 11376, File No. 5833-F1-P-H; Michigan Bell Telephone Company, Docket No. 11377, File No. 5834-F1-P-H; Michigan Bell Telephone Company, Docket No. 11378, File No. 5835-F1-P-H; Michigan Bell Telephone Company, Docket No. 11379, File No. 5836-F1-P-H; for construction permits for new VHF Public Class III-B coast stations at Hancock, Escanaba, East Tawas, Port Huron and Marquette, Michigan, respectively; and Wisconsin Telephone Company, Docket No. 11380, File No. 5299-F1-P-H; for construction permit for new VHF Public Class III-B coast station at Green Bay (Glenmore), Wisconsin:

Appearances. Francis J. Hart, on behalf of Wisconsin Telephone Company; A. M. Van Duzer, E. N. Strand and R. K. Huston, on behalf of Ohio Bell Telephone Company; Jack H. Shuler and Donald E. Brown, on behalf of Michigan Bell Telephone Company; Kelley E. Griffith and Richard R. Murphey, Jr., on behalf of Lorain County Radio Corporation; Robert R. Wertz and R. T. Keenen, on behalf of Central Radio Telegraph Company; and Arthur A. Gladstone, William M. Lesher, Byron E. Harrison and Irving Brownstein, on behalf of the Chief, Common Carrier Bureau and Chief, Safety and Special Radio Services Bureau of the Federal Communications Commission.

Order controlling the conduct of hearing (June 1, 1956). 1. Pre-hearing conferences in the above-entitled proceeding were held on May 20, 1955 and May 23, 1956. The parties participating at the May 23, 1956 hearing conference were those shown in the apperances above.

2. The issues to be resolved in this proceeding are the following:

1. To determine the facts with respect to the proposed facilities, personnel, rates, regulations, practices and services of each applicant.

2. To determine the nature and amount of traffic to be handled by each of the proposed stations, and from what sources such traffic will be derived.

3. To determine the amount of revenues to be received by each of the proposed stations; the costs to each applicant for constructing and operating each proposed station, and the net operating revenues, if any, therefrom.

4. To determine the full scope and extent of the "coordinated move" by the Bell companies on the Great Lakes; namely, to determine Bell's complete plans with respect to applications for other and additional stations on the Great Lakes, and the reasons therefor.

5. To determine whether the existing public radio maritime service on the Great Lakes is adequate to serve the present and reasonably foreseeable future public need therefor.

6. To determine the full effect of the proposed service on the MF-HF-VHF service furnished by existing stations on the Great Lakes and upon the companies furnishing such service.

7. To determine whether the rates, charges, classifications, practices and regulations proposed to be made effective by the applicants for the instant service will result in the establishment of rates and charges which are compensatory to such applicants for such service.

8. If the answer to issue 7 is in the negative, to determine whether the establishment by the applicants of noncompensatory rates and charges for such service will result in unfair competition to Lorain County Radio Corporation or Central Radio Telegraph Company.

9. To determine whether the provisions of section 314 of the Communications Act of 1934, as amended, are applicable to the instant mobile service.

10. If the answer to issue 9 is in the affirmative, to determine whether a grant of the instant applications will have the purpose or effect which may be to substantially lessen competition or to restrain commerce between any place in any state, territory, or possession of the United States, or in the District of Columbia, and any place in any foreign country, or unlawfully to create monopoly in any line of commerce.

11. To determine whether the establishment of the proposed facilities will result in public benefit or advantage, and if so, the nature and extent of such benefit or advantage.

12. To determine the areas to be served by the stations proposed in the above-entitled applications, the areas served by Stations KSA740, KQA761, KQB668, and KQB666 respectively, and the extent to which duplication of service may result from the establishment of the proposed stations.

13. To determine the need for such duplication of service, if any, as may be shown under Issue 12.

14. To determine, in the light of the provisions of § 7.308 (c) of the Commission's rules, whether the extent of the mutual interference which might occur from the use of the frequency 161.9 Mc by the proposed stations, as well as by Stations KSA740, KQA761, KQB668, and KQB666, respectively, would be such as to justify the assignment of the frequency 162.0 Mc, respectively to the proposed stations.

15. To determine, in the light of the evidence adduced on all the foregoing issues, whether the public interest, convenience or necessity will be served by a grant of any or all of the above-entitled applications.

3. As of the present time, the Commission has not established technical standards which can be used to determine the coverage of either the base stations or the mobile stations in the Great Lakes or standards by means of which the adequacy of the communication service can be gauged. The parties have not been able to agree at informal engineering conferences on acceptable standards. At the hearing conference, counsel for the Chief, Common Carrier Bureau, stated that the Common Carrier Bureau would prepare an exhibit setting forth certain criteria which could be used as standards in this proceeding for the purpose of defining the service area of the several base stations and the area within which satisfactory communication service can probably be established. This exhibit will be prepared and exchanged on or about July 31, 1956, or as soon thereafter as is possible. Any other party desiring to propose criteria to establish standards to be used in this proceeding shall exchange such data in exhibit form on or before July 31, 1956, or as soon thereafter as possible.

4. The parties who have prepared and exchanged affidavits, statistical studies and proposed exhibits pursuant to agreements reached at the pre-hearing conference on May 20, 1955, may bring such material up to date and to that extent revise the material which has been exchanged.

5. In order to establish a common basis for traffic studies, it is agreed that such studies may include all of the traffic handled in the Great Lakes area by any of the parties hereto through December 31, 1955, but that no traffic data or studies shall refer to traffic originating in the calendar year of 1956 or any part thereof.

6. Each exhibit to be offered in evidence will identify the person or persons primarily charged with the responsibility

therefor. Exhibits properly verified by the person responsible therefor may be offered in evidence without such person being present at the time of said offer and the exhibit, if responsive to an issue, will be received in evidence in the absence of an objection and a request to cross-examine the person responsible for the exhibit.

7. All exhibits which any party intends to introduce in evidence in support of the affirmative showing of any or all of the several issues concerning which that party has the burden of proof shall be exchanged on or before Tuesday, July 31, 1956.

8. At the time the exhibits are exchanged, the proponent thereof will notify other parties to the proceeding of the identity of each witness who will be called to testify and through whom the party intends to introduce the exhibits in evidence.

9. On or before August 17, 1956, each party will notify the other of the name of each and every witness desired for cross-examination or the subject matter or the exhibit or exhibits which he intends to explore by the cross-examination of adverse witnesses.

10. Nothing in this order is to be construed to prohibit or limit any agreement or stipulations which may be entered into by the parties concerning any matter which may be pertinent to the resolution of any or all of the several issues involved.

11. The evidentiary hearing will begin September 10, 1956. The order in which the parties will proceed will be as follows:

a. The Chief, Common Carrier Bureau, FCC, for the purpose of introducing the criteria to be used to determine the service area of the base stations and the areas within which satisfactory communication service can be established and maintained.

b. The Bell System companies in support of the several issues concerning which they have the burden of proof.

c. The protestants in support of the several issues concerning which they have the burden of proof.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-4513; Filed, June 7, 1956; 8:51 a. m.]

GENERAL SERVICES ADMINISTRATION

THE ATTORNEY GENERAL

DELEGATION OF AUTHORITY TO NEGOTIATE A CONTRACT FOR PROCUREMENT OF ARCHITECTURAL AND ENGINEERING SERVICES

1. Pursuant to the authority vested in me by the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, authority is hereby delegated to the Attorney General of the United States to negotiate a contract with an architectural and engineering firm to draw up plans and specifications for the contemplated additional air conditioning and construction of an elevator at the FBI Academy Building in Quantico, Virginia, without advertising pursuant to section 302 (c) (4) and (9) of said act.

2. This delegation of authority shall be subject to all provisions of Title III of the said act with respect to negotiated contracts, and to all other provisions of law.

3. The authority delegated herein may be redelegated to any officer or employee of the Department of Justice.

4. This delegation shall be effective as of the date hereof.

FRANKLIN G. FLOETE,
Administrator.

JUNE 6, 1956.

[F. R. Doc. 56-4600; Filed June 7, 1956; 9:34 a. m.]

OFFICE OF DEFENSE MOBILIZATION

ALBERT J. PHILLIPS

CHANGES IN APPOINTEE'S STATEMENT OF BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

There have been no changes in my Statement of Business Interests dated December 12, 1955, and published in the FEDERAL REGISTER dated December 31, 1955.

This amends statement previously published in the FEDERAL REGISTER December 31, 1955 (20 F. R. 10180).

Dated: February 1, 1956.

ALBERT J. PHILLIPS.

[F. R. Doc. 56-4517; Filed, June 7, 1956; 8:52 a. m.]

PHILIP N. POWERS

CHANGES IN APPOINTEE'S STATEMENT OF BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No changes since last submission of Form ODM-163.

This amends statement previously published in the FEDERAL REGISTER December 31, 1956 (20 F. R. 10178).

Dated: February 1, 1956.

PHILIP N. POWERS.

[F. R. Doc. 56-4518; Filed, June 7, 1956; 8:52 a. m.]

SECURITIES AND EXCHANGE COMMISSION

RALPH L. LA QUEY

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 1st day of June 1956.

In the matter of Ralph L. La Quey, General P. O. Box 797, New York, New York.

I. The Commission's public official files disclose that Ralph L. La Quey, a sole proprietor, hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof,[1] stating that registrant did not file with the Commission reports of his financial condition during the calendar year 1955, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V. *It is ordered*, That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof at 10 a. m. on the 10th day of July 1956, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. At such time the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before June 26, 1956. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived.

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and

[1] Filed as part of the original document.

thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to July 10, 1956.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 56-4495; Filed, June 7, 1956; 8:47 a. m.]

SIMON KAMINSKY

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 1st day of June 1956.

In the matter of Simon Kaminsky, 38 Park Row, New York 38, New York.

I. The Commission's public official files disclose that Simon Kaminsky, a sole proprietor, hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof,[1] stating that registrant did not file with the Commission reports of his financial condition during the calendar years 1953 and 1955, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V. *It is ordered,* That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof at 10 a. m. on the 10th day of July 1956, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. At such time the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before June 26, 1956. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived.

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to July 10, 1956.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 56-4496; Filed, June 7, 1956; 8:48 a. m.]

W. R. DICKSON AGENCY

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 1st day of June 1956.

In the matter of William Ross Dickson dba W. R. Dickson Agency, 119 Bank Court, Rock Springs, Wyoming.

I. The Commission's public official files disclose that William Ross Dickson, a sole proprietor, dba W. R. Dickson Agency, hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof,[1] stating that registrant did not file with the Commission reports of his financial condition during the calendar year 1955 as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V. *It is ordered,* That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof at 10 a. m. on the 10th day of July 1956 at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. At such time the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before July 3, 1956. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived.

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the

[1] Filed as part of the original document.

FEDERAL REGISTER not later than fifteen (15) days prior to July 10, 1956.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 56-4497; Filed, June 7, 1956; 8:48 a.m.]

H. H. COPPLE

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

JUNE 1, 1956.

In the matter of Horace Howard Copple dba H. H. Copple, 308 Howard Bldg., 424 South Cheyenne, Tulsa, Oklahoma.

I. The Commission's public official files disclose that Horace Howard Copple, a solo proprietor, dba H. H. Copple, hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers, Inc., a national securities association, registered pursuant to section 15A of said act.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof,[1] stating that registrant did not file with the Commission reports of his financial condition during the calendar years 1953 and 1955, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant;

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant; and

(e) Whether, pursuant to section 15A (*l*) (2) of the Securities Exchange Act of 1934, it is necessary or appropriate in the public interest or for the protection of investors or to carry out the purposes of said section, to suspend for a period not to exceed twelve (12) months or to expel registrant from membership in the National Association of Securities Dealers, Inc.

V. *It is ordered,* That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof at 10 a. m. on the 10th day of July 1956 at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. At such time the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before July 3, 1956. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived.

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to July 10, 1956.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 56-4498; Filed, June 7, 1956; 8:48 a. m.]

TECWYN OWEN WILLIAMS

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 1st day of June 1956.

In the matter of Tecwyn Owen Williams, 136 Main Street, Oneonta, New York.

I. The Commission's public official files disclose that Tecwyn Owen Williams, a sole proprietor, hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof,[1] stating that registrant did not file with the Commission reports of his financial condition during the calendar year 1955, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V. *It is ordered,* That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof at 10 a. m., on the 10th day of July 1956 at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. At such time the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before June 26, 1956. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX

[1] Filed as part of the original document.

of the rules of practice unless such decision is waived.

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to July 10, 1956.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 56-4499; Filed, June 7, 1956; 8:49 a. m.]

LINN A. BOYD

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 1st day of June 1956.

In the matter of Linn A. Boyd, 2608 Jacksboro Highway, Wichita Falls, Texas (P. O. Box 2528).

I. The Commission's public official files disclose that Linn A. Boyd, a sole proprietor, hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof,[1] stating that registrant did not file with the Commission reports of his financial condition during the calendar years 1949, 1950, 1953 and 1955, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

[1] Filed as part of the original document.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V. *It is ordered,* That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof at 10 a. m. on the 10th day of July 1956 at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. At such time the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before July 3, 1956. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived.

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to July 10, 1956.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 56-4500; Filed, June 7, 1956; 8:49 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

[Vesting Order 14773, Amdt.]

NORDSTERM ALLGEMEINE VERSICHERUNGS A. G.

In re: Bonds owned by Nordsterm Allgemeine Versicherungs A. G., also known as Nordstern Lebensversicherungs-Aktiengesellschaft; F-28-8183.

Vesting Order 14773, dated June 20, 1950, is hereby amended to read as follows:

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Nordsterm Allgemeine Versicherungs A. G. also known as Nordstern Lebensversicherungs-Aktiengesellschaft, the last known address of which is 2 Fehrbelliner Platz, Berlin-Wilmersdorf, Germany, is a corporation, partnership, association or other business organization, organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Berlin, Germany, and is a national of a designated enemy country (Germany);

2. That the property described as follows: Those certain debts or other obligations, matured or unmatured, evidenced by seventeen (17) 4% Corporate Stock of The City of New York Coupon Bonds, each of $1,000.00 face value, due May 1, 1959, issued in bearer form and numbered as follows, and evidenced by coupons attached to or detached from said bonds and due on or after November 1, 1940:

Series V-10—0205	Series V-11—692
14966	3077
17071	3078
19196	7040
24420	7041
29083	7042
29084	7043
Series V-11—680	7044
681	

together with any and all accruals to the aforesaid debts or other obligations and any and all rights to demand, enforce and collect the same, and any and all rights in, to and under the aforesaid bonds and coupons,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Nordsterm Allgemeine Versicherungs A. G. also known as Nordstern Lebensversicherungs-Aktiengesellschaft, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 4, 1956.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 56-4515; Filed, June 7, 1956; 8:51 a. m.]

[Vesting Order 17320, Amdt.]

HANS AND ALICE LOUISE HOFFMANN-WALBECK

In re: Bonds owned by Hans Hoffmann-Walbeck and Alice Louise Hoffmann-Walbeck; F-28-31115.

Vesting Order 17320, dated February 6, 1951, is hereby amended to read as follows:

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hans Hoffmann-Walbeck and Alice Louise Hoffmann-Walbeck, whose last known address is 2 Bergstrasse, Aumuehle near Hamburg, Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the property described as follows:

a. Those certain debts or other obligations, matured or unmatured, evidenced by six (6) Cities Service Company 5% Gold Debenture Bonds, each of $1,000.00 face value, bearing the numbers M 5454, M 7885, M 7786, M 9941, M 17317 and M 46869, and evidenced by coupons attached to or detached from said bonds due on or after April 1, 1940, and any and all rights to demand, enforce and collect the aforesaid debts or other obligations, and all rights in, to and under the aforesaid bonds and coupons,

b. Those certain debts or other obligations, matured or unmatured, evidenced by three (3) The Central Pacific Railway Company 4% First Refunding Mortgage Gold Bonds, due 1949, of $2,000.00 aggregate face value, bearing the numbers 1967, 7637 and 8064, and evidenced by coupons attached to or detached from said bonds due on or after August 1, 1940, and any and all rights to demand, enforce and collect the aforesaid debts or other obligations, and all rights in, to and under the aforesaid bonds and coupons,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Hans Hoffmann-Walbeck and Alice Louise Hoffmann-Walbeck, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 5, 1956.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 56-4516; Filed, June 7, 1956; 8:52 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 5, 1956.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 32167: *Soda ash—Lake Charles, La., to St. Louis, Mo., group.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on soda ash (other than modified) in bulk, carloads from Lake Charles, La., to St. Louis, Mo., and East St. Louis, Ill.

Grounds for relief: Circuitous routes.

Tariff: Supplement 147 to Agent Kratzmeir's I. C. C. 4087.

FSA No. 32169: *Substituted service—Motor-rail-motor—N. & W. Ry. and Penn. R. R.* Filed by Middle Atlantic Conference, Agent, for interested motor and rail carriers. Rates on various articles of freight loaded in motor truck trailers and transported on railroad flat cars between Pittsburgh, Pa., on one hand, and Kearny, N. J., on the other, and between Kearny, N. J., or Philadelphia, Pa., on the one hand, and Bristol, Va.-Tenn., or Roanoke, Va., on the other.

Grounds for relief: Motor truck competition.

FSA No. 32170: *Trailer-on-flat car service—Wabash Railroad Company.* Filed by The Wabash Railroad Company, for itself and on behalf of the Erie Railroad Company. Rates on various articles of freight, moving on class and commodity rates, loaded in or on trailers transported on railroad flat cars from St. Louis, Mo., and points in the St. Louis area to Akron, Ashland, Barberton, and Cleveland, Ohio, and other points in Ohio described in the application.

Grounds for relief: Motor truck competition and circuitous routes.

Tariff: Wabash Railroad Company tariff I. C. C. No. 7793.

FSA No. 32171: *Caustic soda—Evans City, Ala., to Jeffersonville, Ind.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on sodium (soda), caustic (sodium hydroxide), liquid, tank-car loads, from Evans City, Ala., to Jeffersonville, Ind.

Grounds for relief: Market competition with Huntsville and Redstone Arsenal, Ala.

Tariff: Supplement 212 to Agent C. A. Spaninger's I. C. C. 1351.

FSA No. 32172: *Phosphate rock—Florida to Gulfport, Miss.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on ground phosphate rock and soft phosphate, carloads, as described, from Bartow, Fla., and other Florida points taking same rates to Gulfport, Miss.

Grounds for relief: Circuitous routes.

FSA No. 32173: *Commodities—Central Territory to South.* Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on fresh meats, carloads, nitric acid, tankcar loads, paper making machinery, and parts, carloads, and carbon furnace and electrolytic bath electrodes, mixed carloads from specified points in Ohio to specified points in southern territory.

Grounds for relief: Carrier competition and circuity.

FSA No. 32174: *Commodities—Kansas to southern points.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on residue, petroleum carbon, in bulk, in open-top cars, carloads and sodium phosphate, in bags, carloads from Augusta, Kansas to Jarratt, Va., as to rates on the residue as described, and from Lawrence, Kans., to specified points in Florida, Georgia, Mississippi, North Carolina, South Carolina and Tennessee, as to rates on sodium phosphate.

Grounds for relief: Carrier competition and circuity.

Tariff: Supplement 108 to Agent Prueter's I. C. C. A-3973.

FSA No. 32175: *Anhydrous ammonia—Boutte and Luling, La., to Memphis, Tenn.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on anhydrous ammonia, tankcar loads from Luling and Boutte, La., to Memphis, Tenn.

Grounds for relief: Barge competition, and circuity.

Tariff: Supplement 145 to Agent Kratzmeir's I. C. C. 4112.

FSA No. 32177: *Crude rubber—Texas to Gadsden and Tuscaloosa, Ala.*. Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on crude rubber, artificial, synthetic or neoprene, straight or mixed carloads from Baytown, Borger, Houston, and Port Neches, Tex., to Gadsden and Tuscaloosa, Ala.

Grounds for relief: Barge truck competition, market competition and circuitous routes.

Tariff: Supplement 194 to Agent Kratzmeir's I. C. C. 4139.

FSA No. 32178: *Woodpulp—South to Wisconsin points.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on woodpulp, not powdered, noibn, carloads from specified points in southern territory to Merrimac (Badger Ordnance Works), Wis., and Merrimac (Sauk City-Prairie du Sac-Badger Ordnance Works), Wis.

Grounds for relief: Circuitous routes.

Tariff: Supplement 119 to Agent Spaninger's I. C. C. 1260.

FSA No. 32179: *Sulphuric acid—New Orleans, La., to South.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on sulphuric acid, tank-car loads from New Orleans, La., to specified points in Alabama, Florida, Mississippi and Tennessee.

Grounds for relief: Circuitous routes.

Tariff: Supplement 119 to Agent Spaninger's I. C. C. 1357.

FSA No. 32180: *Acrylonitrile—Texas City, Tex., to Chicago, Ill.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on acrylonitrile, tank-car loads from Texas City, Tex., to Chicago, Ill.

Grounds for relief: Market competition with New Orleans, La., potential water competition, and circuitous routes.

Tariff: Supplement 196 to Agent Kratzmeir's I. C. C. 4139.

AGGREGATE-OF-INTERMEDIATES

FSA No. 32168: *Soda ash—Lake Charles, La., to St. Louis, Mo., group.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on soda ash (other than modified), in bulk, carloads, from Lake Charles, La., to St. Louis, Mo., and East St. Louis, Ill.,

Grounds for relief: Maintenance of depressed rates not applicable in constructing combination rates from or to more distant points.

Tariff: Supplement 147 to Agent Kratzmeir's I. C. C. 4087.

FSA No. 32176: *Anhydrous ammonia—Boutte and Luling, La., to Memphis, Tenn.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on anhydrous ammonia, tank-car loads from Luling and Boutte, La., to Memphis, Tenn.

Grounds for relief: Maintenance of depressed rates without observing same in constructing combination rates from or to more distant points.

Tariff: Supplement 145 to Agent Kratzmeir's I. C. C. 4112.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F. R. Doc. 56-4492; Filed, June 7, 1956; 8:47 a. m.]

[Rev. S. O. 562, Taylor's I. C. C. Order 70]

MISSOURI-KANSAS-TEXAS RAILROAD CO.

DIVERSION OR REROUTING OF TRAFFIC

In the opinion of Charles W. Taylor, Agent, the Missouri-Kansas-Texas Railroad Company, due to washout between Altus and Victory, Oklahoma, is unable to transport traffic routed over its line between these points.

It is ordered, That:

(a) Rerouting traffic: The Missouri-Kansas-Texas Railroad Company and its connections are hereby authorized to reroute and divert traffic moving over its line between Altus and Victory, Oklahoma, due to washout, over any available route to expedite the movement.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall confer wtih the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to such traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 11:00 a. m., May 31, 1956.

(g) Expiration date: This order shall expire at 11:59 p. m., June 15, 1956, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., May 31, 1956.

INTERSTATE COMMERCE COMMISSION,
CHARLES W. TAYLOR,
Agent.

[F. R. Doc. 56-4493; Filed, June 7, 1956; 8:47 a. m.]

[Rev. S. O. 562, Taylor's I. C. C. Order 71]

ST. LOUIS-SAN FRANCISCO RAILWAY CO.

DIVERSION OR REROUTING OF TRAFFIC

In the opinion of Charles W. Taylor, Agent, the St. Louis-San Francisco Railway Company, due to washout between Vernon, Texas, and Snyder, Oklahoma, is unable to transport traffic routed over its line between these points.

It is ordered, That:

(a) Rerouting traffic: The St. Louis-San Francisco Railway Company and its connections are hereby authorized to reroute or divert traffic moving over its line between Vernon, Texas, and Snyder, Oklahoma, due to washout, over any available route to expedite the movement.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to such traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 9:00 a. m., June 1, 1956.

(g) Expiration date: This order shall expire at 11:59 p. m., June 10, 1956, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., June 1, 1956.

INTERSTATE COMMERCE COMMISSION,
CHARLES W. TAYLOR,
Agent.

[F. R. Doc. 56-4494; Filed, June 7, 1956; 8:47 a. m.]